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TITLE 7—AGRICULTURE

Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 958—IRISH POTATOES GROWN IN COLORADO

APPROVAL OF BUDGET OF EXPENSES AND FIXING RATE OF ASSESSMENT

Notice of proposed rule making regarding rules and regulations relative to a proposed budget and rate of assessment, to be made effective under Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958) regulating the handling of Irish potatoes grown in the State of Colorado, was published in the FEDERAL REGISTER (16 F. R. 6637). This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.). After consideration of all relevant matters presented, including the rules and regulations set forth in the aforesaid notice, which rules and regulations were adopted and submitted for approval by the administrative committee for Area No. 3 (established pursuant to said marketing agreement and order), the following rules and regulations are hereby approved.

§ 958.207 *Budget of expenses and rate of assessment.* (a) The expenses necessary to be incurred by the administrative committee for Area No. 3, established pursuant to Marketing Agreement No. 97 and Order No. 58, to enable such committee to perform its functions pursuant to the provisions of the aforesaid marketing agreement and order, during the fiscal year ending May 31, 1952, will amount to $5,250.00.

(b) The rate of assessment to be paid by each handler who first ships potatoes shall be three-eighths of one cent ($0.00375) per hundredweight of potatoes handled by him as the first handler thereof during said fiscal year.

(c) The terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97 and Order No. 58 (7 CFR Part 958).

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup. 608c)

Done at Washington, D. C., this 31st day of July 1951, to become effective 30 days after publication hereof in the FEDERAL REGISTER.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 51-8953; Filed, Aug. 2, 1951; 8:52 a. m.]

PART 973—MILK IN THE MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREA

ORDER TERMINATING CERTAIN PROVISIONS OF THE ORDER, AS AMENDED, REGULATING HANDLING OF MILK IN MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREA

Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the "act," and of the order, as amended (7 CFR Part 973), regulating the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area, hereinafter referred to as the "order," it is hereby found and determined that:

(a) The provisions of the order which classify as Class I milk "aerated cream, ready whipped cream and mixes for topping and uses similar to those of whipped cream," no longer tend to effectuate the declared policy of the act.

(b) Notice of proposed rule making, public procedure thereon, and 30 days prior notice of the effective date hereof are found to be impracticable, unnecessary, and contrary to the public interest in that (1) this termination order relieves handlers from certain restrictions with respect to the handling of "aerated cream, ready whipped cream, and mixes for toppings and uses similar to those of whipped cream"; (2) it is necessary to issue immediately and make effective not later than August 1, 1951, the termination order to reflect current marketing conditions and to facilitate, promote and maintain the orderly marketing of milk produced for the Minneapolis-St. Paul, Minnesota, marketing area; (3) aerated cream, ready whipped cream and mixes for toppings and uses similar to those of whipped cream are not required to be made from producer milk or from milk meeting the health requirements of milk to be disposed of as

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FEDERAL REGISTER

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A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

CODIFICATION GUIDE—Con.

fluid milk within the marketing area; (4) this termination order does not require of persons affected substantial or extensive preparation prior to the effective date; and (5) the time intervening between the date of this termination order and its effective date affords persons affected a reasonable time to prepare for its effective date.

It is therefore ordered, That the provisions of § 973.41 (a) of the order, as amended (7 CFR Part 973), regulating the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area, only insofar as they classify as Class I milk, "aerated cream, ready whipped cream, and mixes for toppings and uses similar to whipped cream," be and hereby are terminated effective at 12:01 a. m., c. s. t., August 1, 1951.

Done at Washington, D. C., this 31st day of July 1951.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

[F. R. Doc. 51-8952; Filed, Aug. 2, 1951; 8:51 a. m.]

TITLE 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

Subchapter B—Immigration Regulations

PART 164—PERMIT TO REENTER THE UNITED STATES

EXECUTION OF APPLICATION IN SINGLE COPY

JULY 23, 1951.

The first sentence of § 164.2, *Application; form; fee,* of Chapter I, Title 8 of the Code of Federal Regulations, is amended by deleting the words "in duplicate" and the commas which immediately precede and follow those words.

(Sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 37, 54 Stat. 675; 8 U. S. C. 102, 222, 458)

BENJAMIN G. HABBERTON,
Acting Commissioner, Immigration and Naturalization.

Approved: July 29, 1951.

PEYTON FORD,
Acting Attorney General.

[F. R. Doc. 51-8917; Filed, Aug. 2, 1951; 8:49 a. m.]

TITLE 24—HOUSING AND HOUSING CREDIT

Chapter IV—Federal National Mortgage Association

PART 400—MORTGAGE PURCHASES, SERVICING AND SALES

DEFENSE AND HOUSING; PERIOD OF ELIGIBILITY

Part 400 is amended by adding a new § 400.151 to read as follows:

§ 400.151 *Defense area housing.* Any mortgage that has been insured pursuant to section 207 or any "Individual Mortgage" that has been insured pursuant to section 611 of the NH Act is also eligible for purchase by FNMA if such mortgage relates to housing programmed by the Housing and Home Finance Agency in a critical defense housing area prior to September 1, 1951, and if it otherwise meets the requirements contained in this part.

Section 400.173 is amended by establishing new eligibility dates to read as follows:

§ 400.173 *Period of eligibility.* Any mortgage purchased by FNMA pursuant to a purchase contract must have been initially guaranteed or insured subsequent to February 28, 1951, and such guaranty or insurance must have become fully effective not less than two (2) months nor more than twelve (12) months prior to the date of delivery of the mortgage to FNMA for purchase, except that (a) a VA-guaranteed section 505 (a) mortgage is not subject to the two months' waiting period or the cut-off date of February 28, 1951, and (b) an FHA-insured section 803 mortgage is not eligible for purchase where the construction or erection of the improvements on the site covered by the mortgage commenced prior to March 21, 1950.

(Sec. 301, 62 Stat. 1252, as amended: 12 U. S. C. 1716)

J. S. BAUGHMAN,
President, Federal National Mortgage Association

[F. R. Doc. 51-8909; Filed, Aug. 2, 1951; 8:46 a. m.]

Chapter VIII—Office of Rent Stabilization, Economic Stabilization Agency

[Controlled Housing Rent Reg., Amdt. 391]

[Controlled Housing Rent Reg. for Atlantic County Defense-Rental Area, Amdt. 35]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg., Amdt. 385]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

MISCELLANEOUS AMENDMENTS

Amendment 391 to the Controlled Housing Rent Regulation (§§ 825.1 to 825.12), Amendment 35 to the Controlled Housing Rent Regulation for the Atlantic County Defense-Rental Area (§§ 825.61 to 825.72) and Amendment 385 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other

Establishments (§§ 825.81 to 825.92). Said rent regulations are hereby amended in the following respects:

1. In §§ 825.1, 825.61 and 825.81 the definition of the word "Expediter" is deleted and a definition of the word "Director" is substituted to read as follows:

"Director" means Director of Rent Stabilization, or the Rent Director or such other person or persons as the Director of Rent Stabilization may appoint or designate to carry out any of the duties delegated to him pursuant to the act.

2. Wherever the word "Expediter" or words "Housing Expediter" appear in any of said rent regulations the word "Director" shall be substituted and wherever the words "Office of the Housing Expediter" appear, the words "Office of Rent Stabilization" shall be substituted.

3. In §§ 825.1 and 825.81 the definition of "maximum rent date" is amended to read as follows:

"Maximum rent date" means the maximum rent date applicable in any particular defense-rental area as established under the authority of the Emergency Price Control Act of 1942, as amended, as set forth in Schedule A.

4. Sections 825.1 (b) (2) (i) and 825.61 (b) (2) (i) are amended to read as follows:

(i) *Accommodations in hotels.* Those housing accommodations in any hotel which on June 30, 1947, were occupied by persons to whom were provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy services (not necessarily all the types of services named need be provided in all cases, as long as enough are provided to constitute customary hotel services usually supplied in establishments commonly known as hotels in the community where they are located). For purposes of this subdivision, the term "hotel" means any establishment which is commonly known as a hotel in the community in which it is located and which provides customary hotel services.

5. Section 825.81 (b) (2) (i) is amended to read as follows:

(i) *Rooms in hotels.* Those rooms in any hotel which on June 30, 1947, were occupied by persons to whom were provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy services (not necessarily all the types of services named need be provided in all cases as long as enough are provided to constitute customary hotel services usually supplied in establishments commonly known as hotels in the community where they are located). For purposes of this paragraph (b) (2) (i), the term "hotel" means any establishment which is commonly known as a hotel in the community in which it is located and which provides customary hotel services.

6. Section 825.82 (b) is amended by deleting therefrom the unnumbered paragraph thereof which reads as follows: "The provisions of this paragraph (b) shall not apply to rooms in hotels in cities of 2,500,000 population or more according to the 1940 decennial census."

7. The first paragraph of § 825.4 (c) is amended by deleting therefrom the following words which are in parentheses in said paragraph "(other than accommodations in hotels to which paragraph (f) of this section applies)."

8. The first paragraph of § 825.84 (c) is amended by deleting therefrom the following words which are in parenthesis in said paragraph "(other than rooms in hotels to which paragraph (h) of this section applies)."

9. Sections 825.4 (f), 825.64 (f) and 825.84 (h) are revoked.

10. The first unnumbered paragraph of §§ 825.5 (a), 825.65 (a) and 825.85 (a) are amended to read as follows:

(a) *Grounds for increase of maximum rent.* Any landlord of housing accommodations registered in accordance with the requirements of this regulation may file a petition or application for adjustment to increase the maximum rent otherwise allowable only on the grounds that:

11. Sections 825.5 (a) and 825.65 (a) are amended by adding at the end thereof the following:

(20) *Adjustment for increases in costs and prices.* (i) The housing accommodations had a maximum rent in effect on July 31, 1951 and June 30, 1947 and the present maximum rent does not equal 120 percent of the following: (*a*) The maximum rent in effect on June 30, 1947; (*b*) plus any increases in the maximum rent allowed or allowable under this regulation for major capital improvements or for increases in living space, services, furniture, furnishings, or equipment; and (*c*) minus any decreases in the maximum rent which are or may be required under this regulation because of decreases in living space, services, furniture, furnishings, or equipment or because of substantial deterioration or failure to perform ordinary repair, replacement or maintenance.

(ii) The housing accommodations had a maximum rent in effect on July 31, 1951 but none on June 30, 1947 and the present maximum rent does not equal 120 percent of the following: (*a*) The maximum rent for comparable housing accommodations on June 30, 1947; (*b*) plus any increases in the maximum rent allowed or allowable under this regulation for major capital improvements or for increases in living space, services, furniture, furnishings, or equipment; and (*c*) minus any decreases in the maximum rent which are or may be required under this regulation because of decreases in living space, services, furniture, furnishings, or equipment or because of substantial deterioration or failure to perform ordinary repair, replacement or maintenance.

(iii) *Amount of adjustment.* The adjustment under this paragraph (a) (20) shall be in an amount sufficient to cause the maximum rent to equal 120 percent of the amount specified in subdivision (i) or (ii) of this subparagraph whichever is applicable: *Provided, however,* That the Director shall give appropriate consideration to orders issued under paragraph (c) (1) or (c) (6) of this section decreasing maximum rents which were in effect on June 30, 1947: *And provided further,* That no adjustment under this paragraph (a) (20) shall be effected unless the application filed by the landlord for the adjustment is sworn to.

(iv) Where an adjustment under this paragraph (a) (20) is based on a maximum rent in effect on June 30, 1947 and on increases or decreases, if any, in the maximum rent actually allowed under this regulation, such adjustment shall be effective automatically upon the filing of the sworn application. In all other cases under this paragraph (a) (20), such adjustment shall not be effective until an order is entered by the Director.

12. Section 825.85 (a) is amended by adding at the end thereof the following:

(14) *Adjustment for increases in costs and prices.* (i) The room had a maximum rent in effect on July 31, 1951 and June 30, 1947 and the present maximum rent does not equal 120 percent of the following: (*a*) The maximum rent in effect on June 30, 1947; (*b*) plus any increases in the maximum rent allowed or allowable under this regulation for major capital improvements or for increases in living space, services, furniture, furnishings, or equipment; and (*c*) minus any decreases in the maximum rent which are or may be required under this regulation because of decreases in living spaces, services, furniture, furnishings, or equipment or because of substantial deterioration or failure to perform ordinary repair, replacement or maintenance.

(ii) The room had a maximum rent in effect on July 31, 1951, but none on June 30, 1947, and the present maximum rent does not equal 120 percent of the following: (*a*) The maximum rent for comparable rooms on June 30, 1947; (*b*) plus any increases in the maximum rent allowed or allowable under this regulation for major capital improvements or for increases in living space, services, furniture, furnishings, or equipment; and (*c*) minus any decreases in the maximum rent which are or may be required under this regulation because of decreases in living space, services, furniture, furnishings, or equipment or because of substantial deterioration or failure to perform ordinary repair, replacement or maintenance.

(iii) *Amount of adjustment.* The adjustment under this paragraph (a) (14) shall be in an amount sufficient to cause the maximum rent to equal 120 percent of the amount specified in subdivision (i) or (ii) of this subparagraph whichever is applicable: *Provided, however,* That the Director shall give appropriate consideration to orders issued under paragraph (c) (1) or (c) (4) of this section decreasing maximum rents which were in effect on June 30, 1947: *And provided further,* That no adjustment under this paragraph (a) (14) shall be effected unless the application filed by the landlord for the adjustment is sworn to.

(iv) Where an adjustment under this paragraph (a) (14) is based on a maximum rent in effect on June 30, 1947, and on increases or decreases, if any, in the maximum rent actually allowed under this regulation, such adjustment shall be effective automatically upon the filing of the sworn application. In all other cases under this paragraph (a) (14), such adjustment shall not be effective until an order is entered by the Director.

13. Sections 825.5 (h), 825.65 (h) and 825.85 (f) are revoked.

14. Section 825.87 (b) is amended by deleting therefrom the last unnumbered paragraph thereof which reads as follows: "The provisions of this paragraph (b) shall not apply to rooms in hotels in cities of 2,500,000 population or more according to the 1940 decennial census."

15. Sections 825.6 and 825.66 are amended to read as follows:

Removal of tenant—(a) *Restrictions on removal of tenant.* So long as the tenant continues to pay the rent to which the landlord is entitled, no tenant shall be removed from any housing accommodations by action to evict or to recover possession, by exclusion from possession, or otherwise, nor shall any person attempt such removal or exclusion from possession, notwithstanding that such tenant has no lease or that his lease or other rental agreement has expired, or otherwise terminated, and regardless of any contract, lease, agreement or obligation heretofore or hereafter entered into which provides for surrender of possession or for entry of judgment upon the tenant's confession for breach of the covenants thereof, or which otherwise provides contrary hereto, unless the housing accommodations are registered as required by this regulation and except on one or more of the grounds specified in this paragraph (a) or unless a certificate has been issued as provided in paragraph (b) of this section.

(1) *Violating substantial obligation of tenancy.* The tenant is violating a substantial obligation of his tenancy, other than an obligation to pay rent or an obligation to surrender possession of the housing accommodations, and has continued or failed to cure such violation after a written notice by the landlord that the violation cease.

(2) *Nuisance or illegal or immoral use.* Under the local law, the tenant (i) is committing or permitting a nuisance in the housing accommodations and such nuisance continues after written notice to the tenant that the same shall cease or (ii) is using or permitting a use of such housing accommodations for an immoral or illegal purpose.

(3) *Tenant's refusal of access to landlord.* The tenant has unreasonably refused the landlord access to the housing accommodations for the purpose of inspection or of showing the accommodations to a prospective purchaser, mortgagee, or prospective mortgagee, or other person having a legitimate interest therein: *Provided, however,* That such refusal shall not be ground for removal if such inspection or showing of the accommodations is contrary to the provisions of the tenant's lease or other rental agreement.

(4) *Accommodations entirely sublet.* The tenant's lease or other rental agreement has expired or otherwise terminated, and at the time of termination are occupants of the housing accommodations are subtenants or other persons who occupied under a rental agreement with the tenant, and no part of the accommodations is used by the tenant as his dwelling.

(5) *Landlord is a state or political subdivision thereof.* The housing accommodations have been acquired by a state or political subdivision thereof and such state or political subdivision seeks to recover possession for the immediate purpose of making a public improvement.

(b) *Eviction certificate; evictions not inconsistent with regulation.* No tenant shall be removed or evicted on grounds other than those stated in paragraph (a) of this section or other than for nonpayment of rent unless on petition of the landlord the Director certifies that an eviction of the character proposed is not inconsistent with the purposes of the act or this regulation and would not be likely to result in the circumvention or evasion thereof. Where the housing accommodations are registered as required by this regulation, the Director shall so certify for the following purposes:

(1) *Occupancy by landlord or by landlord's parent or child.* Where the landlord seeks in good faith to recover immediate possession of housing accommodations for personal use and occupancy as a dwelling or for the use and occupancy as a dwelling for the landlord's parent or child: *Provided,* That the petition states the facts or reasons moving the landlord to seek possession for such use or occupancy: *And provided, however,* That:

(i) Where the landlord acquired his rights in the housing accommodations on or after April 1, 1949, or on or after the effective date of control under this regulation, whichever date is later, and at the time the petition is filed the landlord has title or an enforceable right to purchase and the right of immediate possession to the housing accommodations, a certificate for the purpose stated in the above paragraph (b) (1) shall be issued for the eviction of a person who was a tenant of the housing accommodations at the time such landlord acquired his rights therein, only where the Director finds that the payment, or payments, of principal made by such landlord aggregate ten percent or more of the purchase price of the housing accommodations. Any payment of principal made from funds borrowed for the purpose of making such payments shall be excluded in determining whether ten percent of the purchase price has been paid. Where property other than the housing accommodations which are the subject of the purchase is mortgaged or pledged to the seller to secure any unpaid balance of the purchase price, the payment required shall be deemed satisfied if the value of such security, plus any payment of principal made from funds not borrowed for the purpose of making such principal payments, equal ten percent or more of the purchase price. Payment, or payments, of principal may be made conditionally or in escrow to the end that they shall be returned to the landlord-purchaser in the event the Director denies a petition for a certificate: *And provided further, however,* That the principal payment requirement of this paragraph shall not apply where the landlord is a veteran of World War II, who obtained a loan for use in purchasing such housing accommodations which was granted in whole or in part by the Administrator of Veterans' Affairs;

(ii) Where the housing accommodations are located in a structure or premises which contain more than four housing accommodations and the housing accommodations or premises are owned by two or more persons not constituting a cooperative corporation or association (husband and wife or parent and child as owners being considered one owner for this purpose) no certificate shall be issued under this paragraph (b) (1) for occupancy of more than one housing accommodation, and then only if none of co-owners are already in occupancy of any housing accomodation in such structure or premises;

(iii) In the case of housing accommodations in a structure or premises owned by a cooperative corporation or association, no certificate shall be issued, for eviction of a person who was a tenant of the housing accommodations at the time of purchase, to a purchaser of stock or other evidence of interest in the cooperative, who is entitled by reason of such ownership of stock or other interest to possession of such housing accommodations by virtue of a proprietary lease, or otherwise, unless such cooperative corporation or association was organized prior to August 1, 1951, or prior to the effective date of this regulation, where the effective date of this regulation is later than August 1, 1951, and unless the stock or other evidence of interests in the cooperative has been purchased by persons who are tenants in occupancy of at least 65 percent of the housing accommodations in the structure or premises and are entitled to proprietary leases of housing accommodations in the structure or premises.

For the purposes of paragraph (b) (1) of this section, the word "parent" includes a father and father-in-law, mother and mother-in-law; and the word "child" includes a son and son-in-law, daughter and daughter-in-law, stepchild and adopted child.

(2) *Alterations or remodeling.* Where a landlord seeks in good faith to recover possession for the immediate purpose of substantially altering or remodeling the housing accommodations and such alterations or remodeling (i) is for the purpose of creating additional housing accommodations of the type recognized as self-contained family dwelling units in the neighborhood in which they are located or (ii) is to substantially improve such accommodations for continued use as housing accommodations or is reasonably necessary to protect and conserve the housing accommodations: *Provided,* That the landlord has obtained

such approval for the proposed alterations or remodeling as may be required by Federal, State, and local law: *And provided further,* That such alterations or remodeling cannot practicably be done with the tenant in occupancy.

(3) *Withdrawal from rental market.* Where the landlord establishes that he seeks in good faith to recover possession of the housing accommodations for the immediate purpose of permanently withdrawing them from both the housing and non-housing rental markets without any intent to sell the housing accommodations.

(4) *Landlord is tax-exempt organization.* Where the landlord establishes that it is an organization exempt from taxation under section 101 (6) of the Internal Revenue Code, and that it seeks in good faith to recover possession of the housing accommodations for the immediate and personal use and occupancy as housing accommodations by members of its staff.

(5) *Eviction not inconsistent with act or regulation.* Where the Director in any case finds and certifies that a removal or eviction of the character proposed is not inconsistent with the purposes of the act or this regulation and would not be likely to result in the circumvention or evasion thereof.

(c) *Eviction certificates; waiting period; valid use of certificate.* Certificates issued under paragraph (b) of this section, at the expiration of three months from the date of the filing of the petition, shall authorize an action to be brought for removal or eviction of the tenant instituted in accordance with requirements of local law: *Provided, however,* That:

(1) In cases under paragraph (b) (3) of this section the waiting period shall be six months;

(2) In any case where the Director finds that by reason of exceptional circumstances extreme hardship would result he may waive all or part of the waiting period;

(3) No provision of this section shall be construed to prohibit a landlord who has obtained a certificate under paragraph (b) of this section from serving, prior to the expiration of the waiting period specified in said certificate, such notice or notices as may be required by the local law, provided that such notice or notices do not demand surrender of possession until after expiration of said waiting period;

(4) In the event that the landlord's intention or circumstances so change that the premises, possession of which is sought, will not be used for the purpose specified in the certificate, the certificate shall not be effective to authorize eviction or removal of the tenant through court action or otherwise.

(d) *Notice required.* (1) No tenant shall be removed or evicted from housing accommodations by court process or otherwise and no action or proceeding shall be commenced for such purpose upon any of the grounds permitted in paragraph (a) of this section, including an action based upon non-payment of rent, unless and until the landlord shall have given written notice to the Area Rent Office and to the tenant as provided in this paragraph (d) (1).

Every such notice to a tenant to vacate or surrender possession of housing accommodations shall state that the housing accommodations are registered as required by this regulation, and shall state the ground under this section upon which the landlord relies for removal or eviction of the tenant, the facts necessary to establish the existence of such ground, and the date when the tenant is required to surrender possession. Where the basis relied upon for removal or eviction of a tenant is non-payment of rent the notice shall also include a statement of the maximum rent, the amount of the rent due and the rental period or periods for which such rent is due. A written copy of every notice required by this paragraph (d) (1) shall be filed with the Area Rent Office within 24 hours after such notice is given to the tenant.

Unless a longer period is required by the local law, every such notice shall give to the tenant a period not less than the following periods prior to the date specified therein for the surrender of possession and to the commencement of any action for removal or eviction: In cases arising under paragraph (a) (1) or (a) (2) of this section, a period not less than 10 days; under paragraph (a) (3) of this section, a period not less than one month; under paragraph (a) (4) or (a) (5) of this section, a period not less than 2 months; and in cases where the basis relied upon in such notice for removal or eviction is non-payment of rent, a period not less than three days.

If judgment for possession is sought by virtue of a confession of judgment or by virtue of a warrant of attorney authorizing confession of such judgment against the tenant, the date of commencement of the action as referred to in this section shall be deemed to be the date of the filing in court of the first papers in the proceedings for the entry of such judgment.

(2) At the time of commencing any action to remove or evict a tenant, on any ground permitted in paragraph (a) of this section, including an action based upon non-payment of rent, the landlord shall give written notice thereof to the Area Rent Office, stating the title of the case, the number of the case where that is possible, the name and address of the tenant, and the ground or basis relied upon under this section on which removal or eviction is sought.

(e) *Exceptions.* The provisions of this section do not apply to:

(1) *Subtenants.* A subtenant or other person who occupies or occupied under a rental agreement with the tenant, where removal or eviction of the subtenant or other such occupant is sought by the landlord of the tenant, unless the rental agreement between the landlord and tenant contemplated the subletting by the tenant of the entire accommodations or substantially all of the individual units therein, or unless under the local law there is a tenancy relationship between the landlord and the subtenant or other such occupant.

(2) *Public housing.* Notwithstanding any other provisions of this section the United States or any State or local public agency may maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action or proceeding is authorized by the statute or regulation under which such accommodations are administered.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Supp. 1894)

This amendment shall become effective August 1, 1951.

Issued this 1st day of August 1951.

TIGHE E. WOODS,
Director of Rent Stabilization.

[F. R. Doc. 51-8993; Filed, Aug. 1, 1951; 12:12 p. m.]

[Controlled Housing Rent Reg., Amdt. 392]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg., Amdt. 386]

PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

MISCELLANEOUS AMENDMENTS

Amendment 392 to the Controlled Housing Rent Regulation (§§ 825.1 to 825.12) and Amendment 386 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92). Said regulations are amended in the following respects:

1. Paragraph 4 (b) of Item 76 of Schedule B of the Controlled Housing Rent Regulation is amended to read as follows:

(b) All maximum rents established hereunder shall be subject to adjustment in accordance with the applicable provisions of § 825.5, including § 825.5 (a) (20), except wherever the date June 30, 1947 appears in said § 825.5 (a) (20), the date April 30, 1947 shall be substituted.

2. Paragraph 4 (b) of Item 76 of Schedule B of the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments is amended to read as follows:

(b) All maximum rents established hereunder shall be subject to adjustment in accordance with the applicable provisions of § 825.85, including § 825.85 (a) (14), except that wherever the date June 30, 1947 appears in said § 825.5 (a) (14), the date April 30, 1947 shall be substituted.

3. Item 80 of Schedule B of the Controlled Housing Rent Regulation and the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments is amended as follows:

At the end of subparagraph (a) of said Item 80, the period is deleted and the following is added: "; (iv) in §§ 825.5 (a) (20) and 825.85 (a) (14), wherever the date June 30, 1947 appears, the date April 30, 1947 shall be substituted."

4. Item 81 of Schedule B of the Controlled Housing Rent Regulation and the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments is amended as follows:

At the end of subparagraph (a) in said Item 81 the period is deleted and the

following is added: "; (iv) in §§ 825.5 (a) (20) and 825.85 (a) (14), wherever the date June 30, 1947 appears the date May 31, 1947 shall be substituted."

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Supp. 1894)

This amendment shall be effective August 1, 1951.

Issued this 1st day of August 1951.

TIGHE E. WOODS,
Director of Rent Stabilization.

[F. R. Doc. 51-8996; Filed, Aug. 2, 1951; 12:02 p. m.]

[Rent Procedural Reg. 2]

PART 840—PROCEDURE

MISCELLANEOUS AMENDMENTS

Amendment 7 to the Rent Procedural Regulation 2. Rent Procedural Regulation 2 (§§ 840.101 to 840.153) is hereby amended in the following respects:

1. The first paragraph is amended to read as follows:

Pursuant to the authority of the Housing and Rent Act of 1947, as amended (Public Laws 129, 422 and 464, 80th Congress; Public Laws 31, 574 and 880, 81st Congress and Public Laws, 8, 69 and 96, 82d Congress) in order to provide for orderly procedures the following rules are prescribed for adjustments, administrative review and interpretations under the maximum rent regulations:

2. Wherever the word "Expediter" or words "Housing Expediter" appear in Rent Procedural Regulation 2 the words "Director of Rent Stabilization" shall be substituted and wherever the words "Office of the Housing Expediter" appear, the words "Office of Rent Stabilization" shall be substituted.

(3) Section 840.145 is amended by adding a new paragraph (l) reading as follows:

(l) "Petition" when referring to a landlord's request for an adjustment of maximum rent shall include applications as well as petitions.

(Sec. 204, 61 Stat. 197, as amended; 50 U. S. C. App. Supp. 1894)

This amendment shall become effective August 1, 1951.

Issued this 1st day of August 1951.

TIGHE E. WOODS,
Director of Rent Stabilization.

[F. R. Doc. 51-8991; Filed, Aug. 1, 1951; 12:11 p. m.]

TITLE 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

Subchapter B—Executive Orders, Proclamations, and Public Land Orders Applicable to the Navy

PART 702—TABULATION OF EXECUTIVE ORDERS, PROCLAMATIONS, AND PUBLIC LAND ORDERS APPLICABLE TO THE NAVY

ESTABLISHMENT OF NAVY HOSPITAL AREA, COCO SOLO, CANAL ZONE

CROSS REFERENCE: For addition to the tabulation in § 702.4, *see* Canal Zone Order 23, Title 35, Chapter I, appendix, *infra*.

TITLE 32A—NATIONAL DEFENSE, APPENDIX

Chapter III—Office of Price Stabilization, Economic Stabilization Agency

[Ceiling Price Regulation 6, Amendment 10]

CPR 6—FATS AND OILS

EXPORTS

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order 2 (16 F. R. 738) this Amendment 10 to Ceiling Price Regulation 6 is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment has two purposes. First, as a matter of clarification, it provides that for those "fats and oils" and "fats and oils products in the finished form" to which CPR 6 applies, ceiling prices for export sales are covered by Ceiling Price Regulation 61, issued July 30, 1951. Second, it provides that control over export sales of tallows and greases will no longer be covered by section 14 of CPR 6, but will be covered by CPR 61.

Specific ceiling prices, applicable to export sales, were put into effect on tallows and greases by Amendment 2 to CPR 6, because it became apparent that export sales of these products were inadequately controlled under the General Ceiling Price Regulation. Accordingly, section 14 was included in CPR 6 to provide that ceiling prices for export sales of tallows and greases must be determined by adding to the domestic ceiling prices those costs associated with export transactions not to exceed ¼¢ per pound.

Since then, there has been issued CPR 61, which provides ceiling prices for export sales in general, subject to certain exceptions. CPR 61 by its very terms is applicable to the commodities controlled by this Regulation and renders Section 14 of CPR 6 superfluous. This amendment, therefore, brings export sales of tallows and greases in line with the other commodities covered by CPR 61, and makes it clear that export sales of the commodities other than tallows and greases, defined by CPR 6, are covered by CPR 61. At the same time, this amendment defines, for all purposes, the meaning of the term "fats and oils products in finished form" which had not been defined or explained heretofore.

AMENDATORY PROVISIONS

Ceiling Price Regulation 6 is amended in the following respects:

1. A new paragraph (d) is added to section 10, to read as follows:

(d) The term "fats and oils products in the finished form" as used in this regulation means those products the whole or a substantial part of which are manufactures from fats or oils, which are sold for use or consumption without further processing and the manufacturing process of which includes more than filtering, refining, deodorizing, splitting, or dividing into component parts. Examples of such fats and oils products in the finished form are: shortening, margarine, salad dressing, and mayonnaise.

2. Section 14 is amended by deleting the present section 14 and substituting therefor a new section 14 to read as follows:

SEC. 14. *Ceiling prices for exports of fats and oils and fats and oils products in the finished form.* Ceiling Price Regulation 6 applies to sales for export of the "fats and oils" and "fats and oils products in the finished form" which are covered by this regulation.

(Sec. 704, Pub. Law 774, 81st Cong., as amended)

Effective date. This amendment shall become effective on August 6, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 30, 1951.

[F. R. Doc. 51-8947; Filed, July 31, 1951; 4:22 p. m.]

[Ceiling Price Regulation 18, Revision 1, Supplementary Regulation 1, Amendment 1]

CPR 18 REV. 1—MANUFACTURERS' PRICES FOR WOOL YARNS AND FABRICS

SR 1—PRODUCT LINE METHOD OF COMPUTING CEILING PRICES FOR MANUFACTURERS OF WOVEN WOOLEN INDUSTRIAL FELTS

EXTENSION OF TIME

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738) this Amendment 1 to Supplementary Regulation 1, Ceiling Price Regulation 18, Revision 1, is hereby issued.

STATEMENT OF CONSIDERATIONS

The revocation of General Overriding Regulation 13, as amended, lifted the partial suspension of Ceiling Price Regulation 18, Revision 1. To allow additional time, and to conform this supplementary regulation to Ceiling Price Regulation 18, Revision 1, as amended by Amendments 1 and 2, the date upon which manufacturers of woven woolen industrial felts, who elect to use the product line method of computation, must use this supplementary regulation, is amended to August 13, 1951.

AMENDATORY PROVISIONS

Supplementary Regulation 1 to Ceiling Price Regulation 18, Revision 1, as amended, is hereby amended in the following respects:

Wherever the date "July 16, 1951" appears in section 1, that date is changed so as to read "August 13, 1951."

(Sec. 704, Pub. Law 774, 81st Cong., as amended)

Effective date: This amendment is effective on July 31, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 30, 1951.

[F. R. Doc. 51-8945; Filed, July 31, 1951; 4:20 p. m.]

[Ceiling Price Regulation 22, Amendment 20]

CPR 22—Manufacturers' General Ceiling Price Regulation

Extension of Effective Date and Related Changes

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 20 to Ceiling Price Regulation 22 is hereby issued.

Statement of Considerations

The revocation of General Overriding Regulation 13, as amended, makes necessary the issuance of this amendment clarifying the status of Ceiling Price Regulation 22. General Overriding Regulation 13 was issued to carry out the anti-rollback provisions, contained in the extension of the Defense Production Act until July 31, 1951, and the legislative intent which indicated that the status quo should be preserved pending further Congressional consideration.

The effect of General Overriding Regulation 13 was to suspend the provisions of Ceiling Price Regulation 22 except as to those who had complied with the requirements of the regulation and actually put it into effect on or before June 30, 1951. The revocation of General Overriding Regulation 13 lifts this suspension and Ceiling Price Regulation 22 therefore becomes applicable to all manufacturers who are subject to its provisions.

Prior to the issuance of General Overriding Regulation 13, the mandatory effective date of Ceiling Price Regulation 22 was July 2, 1951, although a manufacturer had the option of selecting any earlier date between May 28 and July 2, 1951, for making the regulation effective as to him. This amendment continues the optional feature but extends the mandatory effective date to August 13, 1951. Even though the effective date of General Overriding Regulation 13 was July 1, 1951, so that in fact all Forms 8 under Ceiling Price Regulation 22 would otherwise have been due on the following day, nonetheless the Director of Price Stabilization has determined that in view of the uncertainty which may have resulted in the interim period it is reasonable to allow manufacturers who have not already complied with the filing requirements this additional time for completing and filing their Forms 8. It should be emphasized, however, that no further extension is contemplated and that none would have been granted had General Overriding Regulation 13 not been issued.

Under General Overriding Regulation 13, generally speaking, if the required Public Form No. 8 had not been received by OPS on or before June 14, 1951, a seller could not have put any increased prices into effect, since the 15-day waiting period provided by Ceiling Price Regulation 22 had not run by June 30, 1951. This amendment provides expressly that after a Public Form No. 8 was filed the 15-day waiting period shall be considered to have been running regardless of the date on which the form was filed. Thus, if Forms 8 had been received by OPS between June 15 and July 15, inclusive, the increased ceiling prices under CPR 22 may be put into effect on or after July 31, providing no order had been issued directing the seller to continue using GCPR ceiling prices.

Similar changes are made with respect to the running of waiting periods prescribed in sections 21, 32, 33, 43, 44 and 45.

A change reflecting the extension of the mandatory effective date to August 13, 1951, has also been made in the instructions for completing OPS Public Form No. 8 contained in Appendix D.

In addition, section 45 (c) of Ceiling Price Regulation 22 is amended to permit applications for temporary adjustments to carry out existing contracts to be filed on or before September 4, 1951. Previously the date was August 1, 1951.

Amendatory Provisions

Ceiling Price Regulation 22, as amended, is further amended in the following respects:

1. The last paragraph of the regulation is amended to read as follows:

Effective date. The effective date of this regulation is August 13, 1951, or such earlier date between May 28, 1951, and August 13, 1951, as you may select. Any such earlier effective date selected on or after July 31, 1951, may not, however, be a date earlier than July 31, 1951. If you select an effective date earlier than August 13, 1951, the regulation becomes effective as to you upon that date for all of your commodities covered by the regulation.

2. Section 37 is amended by adding the following new paragraph designated (g):

(g) Extension of the effective date of this regulation pursuant to Amendment 20 of this regulation. In case of such a redetermination you must file an amended Public Form No. 8 by August 13, 1951.

3. Section 43 (d) is amended by adding the following sentence: "The 30-day waiting period shall include each day subsequent to the date of receipt of the application by the Director of Price Stabilization regardless of the date on which the application was received by him."

4. Section 44 (c) is amended by adding the following sentence: "The 30-day waiting period shall include each day subsequent to the date of receipt of the application by the Director of Price Stabilization regardless of the date on which the application was received by him."

5. The first sentence of section 45 (c) is amended by substituting "September 4, 1951" for "August 1, 1951" so as to read as follows: "Applications for adjustment under this section must be filed on or before September 4, 1951, with the Director of Price Stabilization, Washington 25, D. C."

6. Section 45 (d) is amended by adding the following sentence: "The 30-day waiting period shall include each day subsequent to the date of receipt of the application by the Director of Price Stabilization regardless of the date on which the application was received by him."

7. Section 48 (b) is amended by adding the following sentence: "The waiting periods prescribed in sections 21, 32, and 33 shall include each day subsequent to the date of mailing of the application to the Director of Price Stabilization, regardless of the date on which the application was mailed."

8. Section 48 (c) (2) is amended by adding the following sentence: "The 15-day waiting period shall include each day subsequent to the date of receipt of the report by the Director of Price Stabilization regardless of the date on which the report was received by him."

9. The subparagraph following the words "Who Must File" in Appendix D is amended by substituting "August 13, 1951" for "July 2, 1951" so as to read as follows: "Every manufacturer subject to CPR 22 must file this report by August 13, 1951, or such earlier effective date between May 28, 1951, and August 13, 1951, as he may select, as required by sections 46 and 48 of the regulation."

(Sec. 704, Pub. Law 774, 81st Cong., as amended)

Effective date. This amendment shall become effective on July 31, 1951.

Michael V. DiSalle,
Director of Price Stabilization.

July 30, 1951.

[F. R. Doc. 51-8955; Filed, July 31, 1951; 5:02 p. m.]

[Ceiling Price Regulation 22, Supplementary Regulation 9, Amendment 1]

CPR 22—Manufacturers' General Ceiling Price Regulation

SR 9—Returnable Container Cost Adjustments

Extension of Time

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 1 to Supplementary Regulation 9 to Ceiling Price Regulation 22 is hereby issued.

Statement of Considerations

The revocation of General Overriding Regulation 13 as amended lifted the partial suspension of Ceiling Price Regulation 22 and its supplementary regulations. To allow additional time for the calculation of returnable container cost adjustments, the limitation of August 1, 1951, now in this supplementary regulation is extended to September 4, 1951.

Amendatory Provisions

The date August 1, 1951 in the last sentence of section 2 (d) of Supplementary Regulation 9 to CPR 22 is changed to September 4, 1951, so that the sentence now reads: "You may not, however, use this section to add a returnable container cost adjustment to your ceiling prices after September 4, 1951."

(Sec. 704, Pub. Law 774, 81st Cong., as amended)

Effective date. This Amendment 1 to Supplementary Regulation 9 to CPR 22 is effective July 31, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 31, 1951.

[F. R. Doc. 51-8944; Filed, July 31, 1951; 4:20 p. m.]

[Ceiling Price Regulation 22, Supplementary Regulation 11, Amendment 1]

CPR 22—MANUFACTURERS' GENERAL CEILING PRICE REGULATION

SR 11—ALTERNATIVE PRICING METHODS FOR COATED FABRICS

EXTENSION OF FILING DATE

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 1 to Supplementary Regulation 11 to Ceiling Price Regulation 22 is hereby issued.

STATEMENT OF CONSIDERATIONS

The revocation of General Overriding Regulation 13 as amended lifted the partial suspension of Ceiling Price Regulation 22 and its supplementary regulations. This amendment to Supplementary Regulation 11 is being issued to allow manufacturers of coated fabrics who have already filed a Form 8 to resubmit a Form 8 pursuant to this supplementary regulation on or before September 4, 1951.

AMENDATORY PROVISIONS

The date July 31, 1951 in the second sentence of section 1 (a) is changed to September 4, 1951, so that the sentence now reads as follows: "Manufacturers subject to this Supplementary Regulation who have filed a Form 8 on a subject commodity may, nevertheless, resubmit another Form 8 computed pursuant to this Supplementary Regulation, provided such refiling is made on or before September 4, 1951."

(Sec. 704, Pub. Law 774, 81st Cong., as amended)

Effective date. This Amendment 1 to Supplementary Regulation 11 to CPR 22 is effective July 31, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 31, 1951.

[F. R. Doc. 51-8943; Filed, July 31, 1951; 4:20 p. m.]

[Ceiling Price Regulation 31, Amendment 6]

CPR 31—IMPORTS

EXTENSION OF EFFECTIVE DATE

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), as amended, Executive Order 10161 (15 F. R. 6105) and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 6 to Ceiling Price Regulation 31 is hereby issued.

STATEMENT OF CONSIDERATIONS

Amendment 5 extended the compulsory effective date of CPR 31 indefinitely because of the provisions of Public Law 69, 82d Cong., extending the Defense Production Act for the month of July. In view of the Defense Production Act Amendments of 1951, approved by both Houses of Congress, the effective date of September 1, 1951, is provided for CPR 31 with the option that a seller may make the regulation effective on such earlier date as he files the list required by sections 5 or 6 of the regulation.

In order to clarify the intention of section 7 (c), it is also specifically stated that ceiling prices for sales not covered by any previous provisions of the regulation shall be ceiling prices approved by OPS which are in line with ceiling prices otherwise set by the regulation.

AMENDATORY PROVISIONS

Ceiling Price Regulation 31 is amended as follows:

1. The following is substituted for the first sentence in section 7 (c): "The ceiling price for sales of an import commodity for which you are unable to compute a ceiling price under the provisions of paragraphs (a) or (b) of this section or under any other provisions of this regulation shall be a price authorized by the Office of Price Stabilization which is in line with the ceiling prices otherwise set by this regulation. You may apply in writing, in duplicate, to the Office of Price Stabilization, Exports-Imports Branch, Washington 25, D. C. for establishment of a ceiling price for such imported commodity. * * *"

2. The effective date clause is amended to read as follows: "The effective date of this regulation shall be September 1, 1951 or such earlier date on which you file the list required by sections 5 or 6 of the this regulation."

(Sec. 704, Pub. Law 774, 81st Cong., as amended)

Effective date. The effective date of this Amendment 6 to CPR 31 is July 31, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 31, 1951.

[F. R. Doc. 51-8942; Filed, July 31, 1951; 4:19 p. m.]

[Ceiling Price Regulation 46, Amdt. 1]

CPR 46—COPPER SCRAP AND COPPER ALLOY SCRAP

REDUCTIONS IN CEILING PRICES FOR CERTAIN GRADES OF COPPER ALLOY SCRAP AND OTHER CHANGES

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 1 to Ceiling Price Regulation 46 (16 F. R. 5932) is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment to Ceiling Price Regulation 46 rolls back the ceiling prices established for all grades of copper alloy scrap containing tin and makes certain minor changes in the regulation.

The ceiling prices originally established by Ceiling Price Regulation 46 for the various grades of copper alloy scrap were determined on the basis of the value of their metallic content measured in terms of the prevailing prices for primary metals. In applying this principle in the computation of the ceiling prices originally established for the grades of copper alloy scrap containing tin, the value used for that metal was $1.50 per pound. The price of tin, however, has fallen substantially since these computations were made and consequently the ceiling prices for the grades of scrap in question are out of line with the level of ceiling prices applicable to other grades of scrap covered by the regulation.

The action taken in this amendment corrects this discrepancy by rolling back the ceiling prices for grades of copper alloy scrap containing tin to a level reflecting a value of $1.15 per pound for that metal. This value is slightly above the current price of tin, but under prevailing conditions the price for that metal in world markets changes almost daily and $1.15 per pound has been used in order to establish the ceiling prices for grades of copper alloy scrap at a level which it is hoped can be maintained for a reasonable length of time.

Two other changes are made in the regulation. Heretofore, section 10 (b) of the regulation provided that whether a delivery or series of deliveries of refinery brass scrap qualified for a quantity premium was to be determined on the basis of the pounds of dry copper content of the material. The attention of the Office Price Stabilization has been called to the fact that this provision departed from customary industry practice and it therefore has been amended to permit use of the actual weight of the material delivered in making the determination in question. As a result of this change, the determination of quantity premiums in connection with the sale of refinery brass scrap will be on the same basis as that applicable in the case of other grades of scrap covered by the regulation. Finally, the grade designation "Mixed brass borings" has been changed to "Mixed brass borings and solids" to correct an error made in the regulation as originally issued.

In the judgment of the Director of Price Stabilization, the provisions of this amendment are generally fair and equitable and are necessary to effectuate the purposes of the Defense Production Act of 1950.

In formulating this amendment, the Director consulted with representatives of the industry affected to the extent practicable under existing circumstances, and has given consideration to their recommendations.

AMENDATORY PROVISIONS

Ceiling Price Regulation 46 is amended in the following respects:

1. Table A, in the column headed "Grade", the grade name "Mixed brass borings" is amended to read "Mixed brass borings and solids".

2. In Table A, the following amendments are made in items appearing in the column headed "Price":

a. The price for the grade "Bellmetal" is amended to read "31.75".

b. The price for the grade "High grade bronze gears" is amended to read "26.75".

c. The statement of the price for the grade "Tinny phosphor bronze solids and borings" is amended to read as follows:

20.25 cents per pound of copper content plus 94 cents per pound of tin content.

In the case of shipments of less than 5,000 pounds a flat price of 21.25 cents per pound of scrap may be charged if the buyer determines by inspection that the material meets the specification.

d. The statement of the price for the grade "High grade low lead bronze solids and borings" is amended to read as follows:

For material with a lead content of 1 percent or less: 20.25 cents per pound of copper content. 94 cents per pound of tin content.

For material with a lead content of 1.01 percent to 2 percent: 19.75 cents per pound of copper content. 84 cents per pound of tin content.

For material with a lead content of 2.01 percent to 3 percent: 19.25 cents per pound of copper content. 76 cents per pound of tin content.

In the case of shipments of less than 5,000 pounds, a flat price of 20.25 cents per pound of scrap may be charged if the buyer determines by inspection that the material meets the specification.

e. The statement of the price for the grade "High lead bronze solids and borings" is amended to read as follows:

19.25 cents per pound of copper content plus 73 cents per pound of tin content.

In the case of shipments of less than 5,000 pounds, a flat price of 19 cents per pound of scrap may be charged if the buyer determines by inspection that material meets the specification.

f. The price for the grade "Soft red brass solids (No. 1)" is amended to read "18.50."

g. The statement of the price for the grade "Soft red brass borings (No. 1 composition borings)" is amended to read as follows:

19.25 cents per pound of copper content plus 63 cents per pound of tin content.

h. The statement of the price for the grade "Mixed brass borings and solids" is amended to read as follows:

19.25 cents per pound of copper content plus 60 cents per pound of tin content.

i. The price for the grade "Bronze paper mill wire cloth" is amended to read "20.75."

j. The price for the grade "Unlined standard red car boxes" is amended to read "18.25."

k. The price for the grade "Lined standard red car boxes" is amended to read "17.25."

l. The price for the grade "Cocks, faucets, and fittings" is amended to read "16."

m. The price for the grade "Red brass breakage (irony composition)" is amended to read "15.25."

n. The price for the grade "Automobile radiators" is amended to read "14.75."

o. The price for the grade "Heavy yellow brass solids" is amended to read "13.50."

p. The price for the grade "Yellow brass borings" is amended to read "12.50."

3. The first paragraph in section 10 (b) is amended to read as follows:

(b) *Determination of weight.* Whether a delivery or series of deliveries qualifies for a quantity premium shall be determined on the basis of the weight of the scrap determined at the buyer's receiving point and the following shall be deducted from the total weight of the material delivered:

(Sec. 704, Pub. Law 774, 81 Cong., as amended)

Effective date. This amendment shall become effective August 6, 1951. However, until August 13, 1951, any person may deliver copper alloy scrap at a price in excess of the applicable ceiling price established by this amendment in order to carry out any contract entered into before July 31, 1951, if the material so delivered was purchase at a price in excess of the ceiling price established by this amendment and if before July 13, 1951, it was received by, or was in transit to, the person making delivery.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 30, 1951.

[F. R. Doc. 51-8938; Filed, July 31, 1951; 2:47 p. m.]

[Ceiling Price Regulation 47, Amendment 1]

CPR 47—BRASS MILL SCRAP

REDUCTION IN CEILING PRICES FOR CERTAIN GRADES OF BRASS MILL SCRAP

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Amendment 1 to Ceiling Price Regulation 47 (16 F. R. 5940) is hereby issued.

STATEMENT OF CONSIDERATIONS

This amendment to Ceiling Price Regulation 47 rolls back the ceiling prices established for all grades of brass mill scrap containing tin.

The ceiling prices originally established by Ceiling Price Regulation 47 for the various grades of brass mill scrap containing tin were determined on the basis of the value of their metallic content measured in terms of the prevailing prices for primary metals. In applying this principle in the computation of the ceiling prices originally established for the grades of brass mill scrap containing tin, the value used for that metal was $1.50 per pound. The price of tin, however, has fallen substantially since these computations were made and consequently the ceiling prices for the grades of scrap in question are out of line with the level of ceiling prices applicable to other grades of scrap covered by the regulation.

The action taken in this amendment corrects this discrepancy by rolling back the ceiling prices for grades of brass mill scrap containing tin to a level reflecting a value of $1.15 per pound for that metal. This value is slightly above the current price of tin, but under prevailing conditions the price for that metal in world markets changes almost daily and $1.15 per pound has been used in order to establish the ceiling prices for grades of brass mill scrap at a level which it is hoped can be maintained for a reasonable length of time.

In the judgment of the Director of Price Stabilization, the provisions of this amendment are generally fair and equitable and are necessary to effectuate the purposes of the Defense Production Act of 1950.

In formulating this amendment, the Director consulted with representatives of the industry affected to the extent practicable under existing circumstances, and has given consideration to their recommendations.

AMENDATORY PROVISIONS

Ceiling Price Regulation 47 is amended in the following respects:

1. In Table A, the following amendments are made in the prices for the grades listed below:

Kind or grade of scrap (trade or alloy name)	Clean heavy scrap	Rod and rod ends	Turnings
Naval brass	18.50	18.25	17.75
Manganese bronze	18.50	18.25	17.75
Phosphor bronze:			
5 percent	25.25	25.00	24.00
8 percent	27.25	27.00	26.00
10 percent	28.50	28.25	27.25
Under 4 percent	24.00	23.75	22.75

(Sec. 704, Pub. Law 774, 81st Cong., as amended)

Effective date. This amendment shall become effective August 6, 1951. However, until August 13, 1951, any person may deliver brass mill scrap at a price in excess of the applicable ceiling price established by this amendment in order to carry out any contract entered into before July 31, 1951, if the material so delivered was purchased at a price in excess of the ceiling price established by this amendment and if before July 31, 1951, it was received by, or was in transit to, the person making delivery.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 30, 1951.

[F. R. Doc. 51-8939; Filed, July 31, 1951; 2:47 p. m.]

[Ceiling Price Regulation 60]

CPR 60—CASTINGS

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong., as amended), E. O. 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Ceiling Price Regulation 60 is issued.

STATEMENT OF CONSIDERATIONS

This regulation establishes ceiling prices for producers of die castings, gray iron castings, high alloy steel castings, malleable iron castings, manganese steel

castings, railroad specialty castings, nonferrous castings, and carbon and low alloy steel castings.

The products covered by this regulation are used as component parts in tanks, guns, and other military equipment; in automobiles, trucks, airplanes, railroad equipment, and ships; in agricultural and industrial machinery of all sorts; in buildings, bridges, and other structures; and in many articles used by individual consumers. Castings are made from many different metals and alloys by a number of different processes; they may be relatively simple or highly intricate in design; and their weight may be measured in terms of ounces or tons. Although some large producers of automotive and railroad equipment and industrial machinery own plants in which they produce castings for their own use, there are about eight thousand firms engaged principally or solely in the business of producing castings for sale. These range in size from small organizations employing only a few persons to large companies with many millions of dollars in assets and several thousands of employees.

Because of the many different kinds of commodities in which the products covered by this regulation are used and the fact that their cost is generally an important element in the total cost of producing such commodities, their prices have a direct impact upon the cost of the defense program and seriously affect the cost of living, and it is imperative that such prices be kept from rising to unreasonable levels. It is equally important, however, that price regulation does not hinder the production of castings essential to the defense program or the civilian economy.

Before the issuance of this regulation, ceiling prices for castings were established by the General Ceiling Price Regulation and during the base period of that regulation (December 19, 1950, to January 25, 1951, inclusive) many items were being delivered at prices charged in connection with sales made as early as June 1950 and at various times during the last six months of that year. For the most part, these prices reflected little, if any, of the substantial increases in the cost of metals and labor which occurred between the outbreak of hostilities in Korea and January 26, 1951, when the GCPR was issued, and in many cases the castings involved are now being produced at a loss. A few producers have been so seriously affected by this "squeeze" that they have been able to file applications for individual adjustments under General Overriding Regulation 10 and to prove a loss position in their operations. On the other hand, regulations issued by the Office of Price Stabilization since January 25, 1951, have rolled back the ceiling prices for iron and steel scrap, nickel scrap, copper and copper alloy scrap, lead scrap and secondary lead, and aluminum scrap and secondary aluminum ingot to levels somewhat below those prevailing on that date. The various segments of the foundry industry use one or more of these materials in sizable quantities, and consequently there has been a reduction in this important cost element since the issuance of the GCPR.

As a result of these two factors, there developed a serious unbalance in the price structure of many casting producers. The prices for castings sold in mid-1950, but delivered during the GCPR base period are generally too low in relation to present costs while the ceiling prices for castings sold during that base period are in many cases too high. This situation, if allowed to continue, would have resulted in economically wasteful "pattern shifting", would have distorted the established production pattern of the industry, and would have jeopardized the output of vitally needed castings.

It is believed that this regulation will correct the price unbalance which has existed heretofore and will permit the various segments of the industry to obtain an over-all return sufficient, on the basis of present costs, to encourage the high rate of production required by our defense program. Ceiling prices are established herein on the basis of prices at which castings were sold on January 25, 1951, with appropriate adjustments to reflect changes in metals costs occurring between that date and the issuance of this regulation. As previously noted, such costs are generally lower today than they were in January although some producers of ferrous castings in the New England region now have higher costs as a result of an individual adjustment granted their principal supplier of pig iron. The new ceiling prices for castings are thus established on a uniform basis and in some measure will pass on to the consumer savings resulting from the rollbacks in ceiling prices for scrap and secondary metals previously noted.

In accordance with industry practice, two basic pricing techniques are embodied in the regulation. Since some producers ordinarily issue price lists, the regulation provides for the use of such lists in effect on January 25, 1951, as a basis for ceiling price determination. In order to minimize the administrative burden involved in special pricing, ceiling prices for castings which are merely modifications of castings included in a producer's base date price list are to be determined by adjusting the price for the unmodified casting to take account of the net increase or decrease in labor and metals costs resulting from the change in design or specifications. Most castings producers, however, ordinarily use a formula in pricing their products and they are required by the regulation to use the formula which they had in effect on January 25, 1951, as the basis for determining their ceiling prices. In the case of a casting which is the same as a casting produced during the three months' period ended July 31, 1951, production experience in that period is to be used in calculating a ceiling price. In the case of all other castings, the regulation permits the use of estimates in determining a ceiling price for the first order received after its effective date and requires a recomputation on the basis of actual production experience in filling that order. The price thus recomputed is the ceiling price for all subsequent sales of the same item.

The regulation exempts from price control producers whose total net sales of castings in 1950 did not exceed $100,000 and it provides for exemption, upon application, for any producer whose total net sales fall below that figure in any calendar year subsequent to 1950. The total output of castings of the firms thus affected is extremely small in relation to the total production of castings and the benefits derived from imposing ceiling price restrictions on their sales would be slight in relation to the administrative burden involved. Since the regulation provides that any producer so exempted will be automatically subject to the ceiling price limitations established herein if his total net sales of castings in any calendar quarter rise above $30,000, there will be some check upon the charging of exorbitant prices by such producers.

The regulation will result in changes in many of the prices which producers have been permitted to charge under the GCPR, and in some cases a large number of recalculations will have to be made. In order to avoid any hardship in this connection, it is provided that the regulation will not become effective until September 1, 1951, unless a seller elects to put it into effect at an earlier date. If any seller so elects, the regulation becomes effective as to all his deliveries of castings on and after the date selected.

In the judgment of the Director of Price Stabilization, the provisions of this ceiling price regulation are generally fair and equitable and are necessary to effectuate the purposes of the Defense Production Act of 1950, as amended.

So far as practicable, the Director has given due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950, as amended; to prices prevailing during the period from May 24, 1950, to June 24, 1950, inclusive; and to relevant factors of general applicability.

In formulating this regulation, the Director consulted with industry representatives, including trade association representatives, and has given full consideration to their recommendations.

The provisions of this ceiling price regulation and their effect upon business practices, cost practices, or means or aids to distribution in the industry have been considered. It is believed that no changes in such practices or methods have been effected. To the extent, however, that the provisions of this regulation may operate to compel changes in such practices or methods, such provisions are necessary to prevent circumvention or evasion of the regulation and to effectuate the policies of the act.

REGULATORY PROVISIONS

Sec.

Sec.
8. Definitions.
9. Record-keeping requirements.
10. Excise, sales, or similar taxes.
11. Prohibitions.
12. Penalties.
13. Petitions for amendment.

AUTHORITY: Sections 1 to 13 issued under sec. 704, Pub. Law 774, 81st Cong., as amended. Interpret or apply Title IV, Pub. Law 774, 81st Cong., E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *Sales and sellers covered by this regulation.* (a) This regulation applies to you if you produce and sell to another person die castings, gray iron castings, high alloy steel castings, malleable iron castings, manganese steel castings, nonferrous castings, railroad specialty castings, or carbon or low alloy steel castings and if you are located in the 48 states of the United States, its Territories or Possessions, or the District of Columbia.

(b) If your net sales of castings in the calendar year 1950 exceeded $100,000 you must determine ceiling prices under the provisions of this regulation for all of your sales of castings. This regulation also establishes the ceiling prices you may charge for equipment which you furnish in connection with castings sold by you.

(c) If your net sales of castings in the calendar year 1950 did not exceed $100,000 your sales of castings are exempt from price control under the conditions and for the period specified in section 2 (a) of this regulation.

(d) If your net sales of castings in any calendar year subsequent to 1950 do not exceed $100,000, you may file a request to have your sales of castings exempted from price control in accordance with the provisions of section 2 (b) of this regulation.

(e) This regulation also applies to any person who in the regular course of trade or business buys from you castings covered by this regulation.

SEC. 2. *Exemptions* — (a) *Based on total net sales.* (1) If your total net sales of castings during the calendar year 1950 did not exceed $100,000, you need not determine ceiling prices for your sales of castings under the provisions of this or any other regulation heretofore or hereafter issued by OPS. "Total net sales" means the total amount charged by you for castings less returns and allowances. You must, however, file the following reports with the Office of Price Stabilization, Washington 25, D. C.:

(i) On or before September 1, 1951, a statement showing your total net sales of castings during the calendar year 1950;

(ii) Within 15 days after the end of each calendar quarter beginning with the third quarter of 1951, a statement showing your total net sales of castings during the quarter involved.

(2) If you do not file the reports required by subparagraph (1) of this paragraph, OPS may by letter order terminate the exemption granted therein and on and after the date specified in any such order you will be required to comply with all of the provisions of this regulation. You may, however, at any time thereafter file an application for exemption in accordance with paragraph (c) of this section.

(3) The exemption granted in subparagraph (1) of this paragraph will automatically terminate if your total net sales of castings during any calendar quarter ending after September 1, 1951, exceed $30,000 and on and after the 15th day of the month following the end of such quarter you must comply with all of the provisions of this regulation. You may, however, at any time thereafter file an application for exemption in accordance with paragraph (c) of this section.

(b) *Applications for exemption.* If your total net sales of castings during any calendar year beginning after December 31, 1950, do not exceed $100,000, you may file an application for exemption from price control with respect to your sales of castings. Any such application must be filed with the Office of Price Stabilization, Washington 25, D. C., within 30 days after the end of the calendar year involved and must contain the following information: Your name and address; the location of your foundry; a description of the kind of castings produced by you; and your total net sales of castings during the calendar year involved.

The OPS will grant an exemption pursuant to this paragraph by letter order and may require the applicant to file the reports described in paragraph (a) (1) of this section and may provide that any exemption so granted will terminate, or be terminated, in accordance with paragraph (a) (2) and (3) of this section.

SEC. 3. *Ceiling prices for castings determined by using base date price lists.* This section sets forth provisions for determining your ceiling prices for price list castings and modified price list castings. A "price list casting" is one which is the same as a casting which was included on a price list issued by you before January 25, 1951, and which you had in effect on that date. A "modified price list casting" is one which has the same basic design and specifications as a price list casting and which is intended to serve substantially the same purpose, but which nevertheless differs in some respects from such price list casting.

(a) *Price list castings.* (1) Your ceiling price for a price list casting is the applicable price set forth on your price list in effect on January 25, 1951, adjusted in accordance with subparagraph (2) of this paragraph. You must also comply with paragraph (c) of this section.

(2) The applicable price shown on your price list must be adjusted to reflect changes in the cost of metal to you between January 25, 1951, and July 30, 1951. These changes must be made in accordance with the practice customarily followed by you in changing your prices to reflect changes in metal costs and must be calculated as follows:

(i) Determine the metal cost factor used in calculating the price set forth on your base date price list on the basis of the price paid by you as shown on the invoice covering the last delivery to you prior to the date of the issuance of your base date price list, from your usual source of supply. You must include any transportation cost, on a per unit basis, paid by you in connection with such delivery.

(ii) Subtract the amount determined in subdivision (i) of this subparagraph from the price set forth on your base date price list.

(iii) Determine a new metal cost factor on the basis of the price paid by you as shown on the invoice covering the last delivery to you prior to July 30, 1951, from your usual source of supply. This price may not exceed the ceiling price established in the applicable OPS regulation. You may include any transportation cost, on a per unit basis, paid by you in connection with such delivery.

(iv) Add the amount determined in accordance with subdivision (iii) of this subparagraph to the result of the calculation in subdivision (ii) of this subparagraph.

(b) *Modified price list castings.* (1) Your ceiling price for a modified price list casting is the price, determined in accordance with paragraph (a) of this section, for the unmodified price list casting, adjusted to reflect any increase or decrease in cost resulting from the change in design or specification. You must calculate such change in cost in accordance with subparagraph (2) of this paragraph. You must also comply with paragraph (c) of this section.

(2) To calculate the change in cost resulting from the modification in design or specification you must:

(i) Determine the increase or decrease in direct labor costs resulting from such modification on the basis of the labor rates in effect in your foundry on January 25, 1951.

(ii) Determine the increase or decrease in metal costs resulting from such modification on the basis of the price paid by you as shown on the last delivery to you prior to July 30, 1951. This price may not exceed the ceiling price established in the applicable OPS regulation. You may include any transportation cost, on a per unit basis, paid by you in connection with such delivery.

(iii) Add or subtract the net increase or decrease in costs to or from the price as determined in accordance with paragraph (a) of this section, for the unmodified price list casting.

(c) *Extras, discounts, and terms.* The ceiling price determined in accordance with paragraph (a) or (b) of this section must be adjusted to reflect any applicable extra charges, quantity discounts, or class of purchaser differentials which you had in effect on January 25, 1951, and must carry all delivery terms, cash discounts guarantees and servicing terms, and other applicable conditions of sale which you had in effect on that date.

SEC. 4. *Ceiling prices for castings determined by using a base date formula.* If you cannot determine a ceiling price for a casting under section 3 of this regulation, your ceiling price is the price determined in accordance with the formula used by you on January 25, 1951, for calculating a price for the same or a similar casting made by the same production method in the same foundry.

Such ceiling price must be determined in accordance with the following provisions:

(a) *Factors to be used in applying your formula.* In determining a ceiling price by using a formula, you must apply such formula in exactly the same manner as you would have on the base date. You must not include any costs which you did not customarily include in pricing castings and you must calculate the various factors entering into your ceiling price in accordance with the following provisions of this paragraph:

(1) *Metal costs.* (i) You must calculate the metal cost factor exactly as you would have on January 25, 1951, but you must use the price for metal paid by you as shown on the invoice covering the last delivery to you prior to July 30, 1951, from your regular source of supply. If you customarily included transportation costs as part of your metal cost, you may include the transportation cost, on a per unit basis, actually paid by you in connection with such delivery. You may not include, however, any price in excess of the ceiling price established by the applicable OPS regulation and you may not use the price paid to any source other than a regular supplier.

(ii) If you are a producer of nonferrous castings and you do your own alloying, you must determine your metal cost factor by using the ceiling price for the alloy ingot involved established as of July 30, 1951, by the applicable OPS regulation. In determining such ceiling price you may assume that you purchased the alloy at one time in the quantity necessary to produce the number of castings ordered by your customer.

(2) *Labor costs.* You must calculate the labor cost factor in exactly the same manner as you would have on January 25, 1951, by using the straight time and overtime rates for each class of labor in effect in your foundry on that date. If you customarily used machine hour, per piece, or average rates in pricing castings you must use the same methods. You may not change your method of classifying labor as direct or indirect. If your base date formula contains a labor cost factor including both straight time and overtime labor, you must use that factor in computing your ceiling price and you may not include any increase in labor costs resulting from an increase in the amount of overtime above that included in your base date formula. If your base date formula included separate factors for straight time and overtime labor, you may not include any increases in labor costs resulting from an increase in the amount of overtime in excess of an amount computed by using the ratio of overtime hours to straight time hours reflected in your payroll for the four full pay periods immediately preceding the base date.

(3) *Other costs.* You must calculate other cost factors in exactly the same manner as you did on January 25, 1951. You may not, however, include any increases in such costs occurring after that date.

(4) *Additional operations and subcontracted services.* (i) If it was your practice, as of the base date, to perform in your plant on castings produced by you additional operations such as machining, galvanizing and plating, you may include in your ceiling price a factor for any such service you now perform. You must compute such factor in exactly the same manner as you would have on January 25, 1951, by using the material and labor rates in effect for you on that date. If you now subcontract any such operations, you may not include in your ceiling price any amount in excess of that calculated in accordance with the preceding sentence.

(ii) If you subcontract any services (including but not limited to, machining, galvanizing, or plating), and it was your practice as of January 25, 1951, to subcontract and include the cost of such services in pricing castings, you may include a factor for such costs in determining your ceiling price. Such factor must be determined in exactly the same manner employed by you on the base date. You may use the price paid by you for any subcontracted service provided it does not exceed the ceiling price established by the applicable OPS regulation. If it was your practice, as of the base date, to include in your price transportation costs incurred in procuring subcontracted services you may now include any such costs actually paid by you. If it was your practice, as of the base date, to include a markup with respect to subcontracted services, you may now include such a markup at the rate in effect on such date.

(5) *Overhead or burden and profit.* You must calculate the factors for overhead or burden and profit in exactly the same manner as you would have on January 25, 1951, by using the same rates that you would have on that date.

(b) *How to determine your ceiling prices for castings which are the same as castings produced during the three months ended July 31, 1951.* In determining your ceiling price for a casting which is the same as a casting you produced during the period May 1–July 31, 1951, inclusive, you must apply your formula on the basis of your actual production experience with respect to the casting during that period. If, however, it was your practice as of January 25, 1951, to employ standard factors or rates for certain cost elements, you may use the same factors or rates in determining your ceiling price.

(c) *How to determine your ceiling price for all other castings*—(1) *Use of estimates on first order.* In determining a ceiling price for a casting which is not the same as a casting you produced during the period May 1–July 31, 1951, inclusive, you may, in connection with the first order received after the effective date of this regulation, apply your formula (in accordance with the provisions of paragraph (a) of this section) on the basis of estimates of the time and material which will be required. Such estimates must be made in accordance with your practice as of the base date and must be based upon your general production experience.

(2) *Recomputation.* After completion of the first order, you must recompute your ceiling price by applying your formula on the basis of your actual experience in producing such order and the price resulting from such recomputation is your ceiling price for all subsequent sales of the same casting. If it was your practice as of January 25, 1951, to employ standard factors or rates for certain cost elements, you may use the same factors or rates in making this recomputation.

(d) *Extras, discounts, and terms.* The ceiling price determined in accordance with the foregoing provisions of this Section must be adjusted to reflect any applicable extra charges, quantity discounts, or class of purchaser differentials which you had in effect on January 25, 1951, and must carry all delivery terms, cash discounts, guarantees and servicing terms, and other applicable conditions of sale which you had in effect on that date.

SEC. 5. *Ceiling prices for equipment furnished in connection with the sale of castings.* This section sets forth the conditions under which you may charge a buyer for equipment (including but not limited to patterns, dies, molds, tools, or fixtures) furnished by you in connection with your sales of castings and provisions for determining your ceiling price for such equipment.

(a) *Conditions under which you may charge for equipment.* You may charge a buyer for equipment furnished by you in connection with your sale of castings only if:

(1) It was your practice as of January 25, 1951, to charge a buyer for such equipment;

(2) You have not included any factor for such equipment in determining your ceiling price for castings under Section 3 or 4;

(3) You make such charge in exactly the same manner as you would have on January 25, 1951 (i. e. as a flat sum or on a prorated basis) and you separately state the amount of such charge in billing the buyer; and

(4) You follow your practice as of January 25, 1951, with respect to retention or transfer of ownership of such equipment.

(b) *Ceiling price.* Your ceiling price for equipment furnished by you in connection with your sales of castings is the price determined in accordance with the formula you had in effect on January 25, 1951, for pricing the same kind of equipment. You must apply such formula in exactly the same manner as you would have on January 25, 1951, and you must use the applicable factors for materials and labor costs and the rates for overhead or burden and profit which you had in effect on that date. In calculating your ceiling price for equipment you may not include any elements which you would not have included on January 25, 1951, or any increases in costs occurring after that date.

SEC. 6. *Ceiling prices for new sellers.* (a) If you are a producer of castings (other than a transferee described in section 7) who was not in business on January 25, 1951, or if for any other reason you cannot determine a ceiling price under the provisions of section 3 or 4 of this regulation, you must apply to the Office of Price Stabilization, Wash-

ington 25, D. C., for the establishment of a ceiling price or pricing formula.

(1) Any application pursuant to this section must contain the following information: Your name and address; the location of your foundry; a description of the casting or kind of castings you propose to produce; a proposed ceiling price or pricing formula; and a detailed statement of the factors used by you in calculating such price or formula.

(2) Any ceiling price or pricing formula established by OPS pursuant to the provisions of this section will be in line with the ceiling prices otherwise established in this regulation.

(3) If you have filed an application pursuant to this section, you may sell the castings covered by such application at the prices proposed by you, but you must give your customer a copy of your application and agree to refund the amount, if any, by which such prices exceed the ceiling prices established by OPS.

(b) If you are required to file an application pursuant to paragraph (a) of this section and do not do so, OPS may issue an order establishing a ceiling price or pricing formula for you. Any ceiling price provided for by such order will be in line with the ceiling prices otherwise established in this regulation and will apply to all deliveries for which a ceiling price was not otherwise established by this regulation, including deliveries completed prior to the date of the order. The issuance of such an order will not relieve you of your obligation to comply with the requirements of this regulation or of the various penalties for your failure to do so.

SEC. 7. *Transfers of business.* If the business or assets of a producer of castings are sold after the issuance date of this regulation and the transferee carries on the production of castings in the foundry included in such transfer, the ceiling price of the transferee for castings produced in such foundry shall be the same as those to which his transferor would have been subject if no such transfer had taken place and his obligation to keep records sufficient to verify such prices shall be the same. The transferor shall either preserve and make available, or turn over to, the transferee all records of the transactions prior to the transfer which are necessary to enable the transferee to comply with the provisions of this regulation.

SEC. 8. *Definitions.* When used in this regulation, the term:

(a) "Applicable OPS regulation" means the regulation issued by OPS establishing ceiling prices for the commodity referred to.

(b) "Base date" means January 25, 1951.

(c) "Casting" includes any product produced from molten metal or alloy which is formed in a mold or die and on which no further operations are performed, except cleaning, snagging, rough grinding, inspecting, testing, rough drilling, or machining only for the purpose of inspecting or cleaning. It also includes any such product upon which further operations are performed, but only if the product is designed solely to meet the buyer's specifications.

(d) "Factor" means the dollars and cents amount of any element used in determining a price.

(e) "Formula" means a method of determining prices on the basis of costs.

(f) "OPS" means the Office of Price Stabilization.

(g) "Person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or other government or any of its political subdivisions, or any agency of the foregoing.

(h) "Price list" means any document setting forth dollars and cents prices for castings issued by the producer thereof and distributed to his customers.

(i) "You" means any person who is a producer of castings subject to this regulation.

SEC. 9. *Record-keeping requirements.* (a) You must prepare and preserve for the life of the Defense Production Act of 1950, as amended, and for two years thereafter all records necessary to determine whether you have computed your ceiling prices correctly, including but not limited to:

(1) A copy of your price lists, if any, which you had in effect on January 25, 1951;

(2) Records showing your formulas, if any, in effect on January 25, 1951, and the formulas, if any, used in computing your ceiling prices under this regulation. Such records should include the factors used in applying such formulas and all appropriate work sheets and documents substantiating such factors; and

(3) Records showing the extra charges, quantity discounts, class of purchaser differentials, delivery terms, cash terms, guarantees and service terms, and other terms and conditions of sale which you had in effect on January 25, 1951.

(b) Every person making a sale or purchase of castings must keep for inspection by the Office of Price Stabilization, for a period of two years, complete and accurate records of each such sale or purchase showing: The date thereof; the name and address of the seller and buyer; the quantity of each casting sold or purchased; the location of the foundry in which the castings were produced; the price charged or paid; the extras, if any, charged and paid; the price, if any, charged or paid for equipment; the terms of sale; and the disposition of transportation charges.

SEC. 10. *Excise, sales, or similar taxes.* Any person may collect, in addition to the ceiling prices established by this regulation, any excise, sales, or similar tax imposed upon him by reason of his sales of castings covered by this regulation if he is not prohibited by law from making such collection and if he states separately from his selling prices the amount of the tax collected.

SEC. 11. *Prohibitions*—(a) *Against transactions above ceiling prices.* Regardless of any contract or other obligations, on and after the effective date of this regulation you must not sell or deliver castings at prices above the ceiling prices established in this regulation, and you must not offer, solicit, attempt or agree to sell or deliver castings at prices above such ceiling prices.

No person may buy or receive castings in the regular course of trade or business at prices above the ceiling prices established in this regulation and no person may offer, solicit, attempt, or agree to buy or receive castings at prices above such ceiling prices.

Lower prices than those set forth in this regulation may be charged, demanded, paid, or offered.

(b) *Against tie-in transactions.* You must not sell castings on condition (1) that the buyer purchase from any person any commodity or service, or (2) that the buyer sell to any person any commodity or service. No person who buys castings in the regular course of trade or business shall participate in any such tie-in transaction. Nothing in this paragraph, however, shall be construed to prohibit any person from delivering a casting pursuant to a toll or conversion agreement which requires the recipient to deliver scrap to the producer of the casting.

(c) *Against dividing orders.* You must not take any action which would require a buyer to divide an order for castings so that you might charge a price in excess of the ceiling price established in this regulation. No person who buys castings in the regular course of trade or business shall participate in any such action.

(d) *Against evasion.* You must not evade or circumvent the provisions of this regulation by direct or indirect methods in conjunction with the sale, purchase, delivery, or transfer of castings, alone or in conjunction with any other commodity or service, or by way of any commission, service, transportation, or other charge, or discount, premium, or other trade understanding, or otherwise. No person who buys castings in the regular course of trade or business shall participate in any such evasion.

SEC. 12. *Penalties.* Persons violating any of the provisions of this regulation shall be subject to the criminal penalties, civil enforcement actions, and suits for damages provided for in the Defense Production Act of 1950.

SEC. 13. *Petitions for amendment.* Any person seeking an amendment of this regulation may file a petition for amendment in accordance with the provisions of Price Procedural Regulation No. 1.

Effective date. The effective date of this regulation is September 1, 1951, or such earlier date between August 1, 1951 and September 1, 1951, as you may select. If you select such an earlier date, this regulation becomes effective as to you on that date for all of your deliveries of castings covered by this regulation.

NOTE: All record-keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in

accordance with the Federal Reports Act of 1942.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 30, 1951.

[F. R. Doc. 51-8940; Filed, July 31, 1951; 2:48 p. m.]

[Ceiling Price Regulation 61]

CPR 61—EXPORTS

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

The General Ceiling Price Regulation, which was issued on January 26, 1951, included only very general provisions dealing with the prices of commodities exported from the United States. Regulations subsequently issued, such as the General Manufacturers' Regulation, Ceiling Price Regulation 22, also applied to export prices in broad terms. Both the General Ceiling Price Regulation and the General Manufacturers' Regulation were issued as interim regulations, with the intention that detailed regulations would be prepared subsequently dealing in more detail with the specific problems of individual industries and trades.

The provisions, with respect to export prices contained in both these general regulations, permitted in effect the maintenance of customary differentials between prices on export and domestic sales. The problems involved, however, are too complex to be resolved by this simple formulation and it is necessary, therefore, to issue a regulation which will be more precise and which will cover more adequately the wide variety of different transactions involved.

It is necessary that export prices be controlled for a number of important reasons. Under present conditions, prices for many commodities in world markets are substantially above the prices prevailing in the United States. Consequently, unless export price ceilings are established at levels commensurate with those fixed for domestic transactions, there would be serious danger of an excessive diversion of goods from the home market to export. Such a diversion would aggravate inflationary pressures in the United States and impair the effectiveness of the general stabilization program.

In the second place, if sellers were permitted to export at prices out of line with domestic ceilings, there would be danger of encouraging a scramble for the more profitable foreign markets. Sellers who were able to find such markets would have an obvious and unfair advantage over those whose sales were confined to the United States.

Finally, our relations with friendly foreign nations would be injured if American concerns were permitted to charge exorbitant prices on export sales while domestic prices were held to ceiling levels. The United States has a vital interest in the maintenance of stable economic conditions in the nations cooperating in the mutual defense program; control over the prices of American exports will greatly further this interest.

Accordingly, this regulation establishes ceilings on export sales at levels which are in line with domestic ceilings.

The regulation distinguishes between two kinds of sales: Export sales, which are those made directly to foreign purchasers, and sales for export which are sales to domestic purchasers of commodities destined for subsequent export. While the formulae established for these two kinds of transactions differ in detail, in general they permit the addition to domestic ceiling prices of the markups normally obtained on sales of the same kind before Korea, and of the added costs incident to export transactions, such as special packaging, transportation, insurance and consular fees.

The base period used for the determination of normal markups is the eighteen months between January 1, 1949 and June 30, 1950, inclusive. This extended period is needed because of the nature of the export business. If a shorter period were used, it would be impossible for many sellers to find transactions involving the same commodities and classes of purchaser as those involved in current transactions. It would force them to resort to less precise and more unsatisfactory means of obtaining their permitted markups.

It is anticipated that the Office of Price Stabilization will, in the future, issue supplementary regulations establishing specific permitted markups for individual commodities or groups of commodities for the export trade. Such regulations will, of course, be based upon data compiled from surveys which will permit determination of actual markups during the base period.

Prior to the issuance of this regulation, the Director of Price Stabilization consulted with an Industry Advisory Committee established in accordance with the Defense Production Act of 1950, Public Law 774, 81st Congress.

FINDINGS OF THE DIRECTOR OF PRICE STABILIZATION

In the judgment of the Director of Price Stabilization the ceiling prices established by this regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950.

So far as practicable, the Director of Price Stabilization gave due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950; to prices prevailing during the period from May 24, 1950 to June 24, 1950, inclusive; and to relevant factors of general applicability.

ARTICLE I—SCOPE OF REGULATION

Sec.

ARTICLE II—PRICING METHOD

ARTICLE III—GENERAL PROVISIONS

AUTHORITY: Sections 1 to 16 issued under sec. 704, Pub. Law 774, 81st Cong. Interpret or apply Title IV, Pub. Law 774, 81st Cong., E. O. 10161, Sept. 9, 1950, 15 F. R. 6105.

ARTICLE I—SCOPE OF REGULATION

SECTION 1. *What this regulation does.* This regulation provides a formula whereby persons engaged in the exportation of commodities from the continental United States to any place other than a territory or possession of the United States, or from a territory or possession of the United States to any place other than the continental United States or a territory or possession of the United States shall compute their ceiling prices for the sale of such commodities.

SEC. 2. *Applicability and prohibitions—*(a) *Applicability.* This regulation is applicable to both the exportation of commodities from the continental United States to any place other than a territory or possession of the United States, and the exportation of commodities from a territory or possession of the United States to any place other than the continental United States or a territory or possession of the United States.

This regulation applies to all export sales and sales for export except those sales specifically exempt from price control under any regulation issued by the Director of Price Stabilization. However, the provisions of the following enumerated regulations and of all future regulations will continue in effect insofar as they expressly may apply to export sales or sales for export:

Section 14 of the General Ceiling Price Regulation; Supplementary Regulation 8 to the General Ceiling Price Regulation, dealing with coal exporters; Supplementary Regulation 9 to the General Ceiling Price Regulation, dealing with export commitments entered into before February 2, 1951; Supplementary Regulation 34 to the General Ceiling Price Regulation, dealing with beef sausage; Ceiling Price Regulation 5 on iron and steel scrap; Ceiling Price Regulation 8 on upland cotton; Ceiling Price Regulation 19 on tungsten concentrates; Ceiling Price Regulation 24 on wholesale beef; Ceiling Price Regulation 28 on new cotton, linen and underwear cuttings; Ceiling Price Regulation 29 on scrap materials containing nickel; Ceiling Price Regulation 33 on tungsten products; Ceiling Price Regulation 36 on used steel drums; Ceiling Price Regulation 43 on zinc scrap; Ceiling Price Regulation 46 on copper and copper alloy scrap; Ceiling Price Regulation 47 on brass mill scrap, and Ceiling Price Regulation 49 on woodpulp.

(b) *Prohibitions.* On and after the effective date of this regulation, (1) you shall not export or sell for export any commodities covered by this regulation at prices higher than the ceiling prices fixed by this regulation; (2) you shall not buy or receive for export in the course of trade or business any commodity covered by this regulation at prices higher than the ceiling prices fixed by this regulation; and (3) you shall not agree, offer, solicit or attempt to do anything prohibited in this regulation.

ARTICLE II—PRICING METHOD

SEC. 3. *Formula for export sales*—(a) *Merchant exporters.* If you are a merchant exporter, your ceiling price for the export sale of any commodity covered by this regulation to any class of foreign buyer shall be the domestic ceiling price of your supplier at point of delivery, plus a percentage markup used in the base period, January 1, 1949, to June 30, 1950, inclusive, calculated in accordance with section 5 of this regulation, and plus costs of exportation actually incurred by you in connection with such sale. If you made no base period sales of the commodity you are pricing to foreign buyers of the class for which you are pricing, your base period percentage markup shall be calculated in accordance with section 5 of this regulation but shall be based on other base period sales as provided for in section 6 of this regulation.

(b) *Producer exporters.* (1) If you are a producer exporter, your ceiling price for the export sale of any commodity covered by this regulation to any class of foreign buyer, shall be your domestic ceiling price at point of delivery to your largest class of domestic purchaser plus a percentage markup used in the base period January 1, 1949, to June 30, 1950, inclusive, calculated in accordance with section 5 of this regulation, and plus costs of exportation actually incurred by you in connection with such sale. If you made no base period sales of the commodity or product line you are pricing to foreign buyers of the class for which you are pricing, your markup shall be calculated in accordance with section 5 of this regulation but shall be based on other base period sales as provided for in section 6 of this regulation.

(2) If the commodity you are pricing is sold by you exclusively in the export trade and you therefore have no domestic ceiling price for it, you shall apply in writing to the Office of Price Stabilization, Export-Import Branch, Washington 25, D. C., for the establishment of a ceiling price for such commodity or product line: *Provided, however,* That you may use as the price for such a commodity any price heretofore determined or determinable for it under any regulation of this office other than the General Ceiling Price Regulation.

SEC. 4. *Formula for sales for export*—(a) *Merchant exporters.* If you are a merchant exporter, your ceiling price for the sale for export of any commodity covered by this regulation shall be as follows:

(1) For the sale for export of any commodity to any class of buyer, except as provided for by section 7, Restrictions on multiple handling, of this regulation, other than a foreign government purchasing mission or an American firm purchasing in the United States for use in its foreign field operations, your ceiling price shall be the domestic ceiling price of your supplier at point of delivery, plus costs of exportation actually incurred by you in connection with such sale.

(2) For the sale for export of any commodity to a foreign government purchasing mission or to an American firm purchasing in the United States for use in its foreign field operations, your ceiling price shall be the domestic ceiling price of your supplier at point of delivery plus a base period percentage markup calculated under section 5 of this regulation, and plus costs of exportation actually incurred by you in connection with such sale.

(b) *Producer exporters.* If you are a producer exporter, your ceiling price for the sale for export of any commodity covered by this regulation shall be as follows:

(1) For the sale to any class of buyer, except as provided for by section 7, Restrictions on multiple handling, of this regulation, other than a foreign government purchasing mission or an American firm purchasing for use in its foreign field operations, your ceiling price shall be your domestic ceiling price at point of delivery applicable to a sale of the commodity for domestic consumption to a buyer of the same class as the buyer for which you are pricing, plus such costs of exportation actually incurred by you in connection with such sale.

(2) For the sale to a foreign government purchasing mission or to an American firm purchasing for use in its foreign field operations, your ceiling price shall be your domestic ceiling price at point of delivery applicable to a sale of the commodity for domestic consumption to a buyer of the same class as the buyer for which you are pricing, plus a base period percentage markup calculated under section 5 of this regulation, and plus costs of exportation actually incurred by you in connection with such sale.

(3) If you are a producer exporter and the commodity you are pricing is sold by you exclusively in the export trade and you therefore have no domestic ceiling price for it, you shall apply to the Office of Price Stabilization, Export-Import Branch, Washington 25, D. C., for a ceiling price as provided for in section 3 (b) (2) of this regulation: *Provided, however,* That you may use as the price for such a commodity any price heretofore determined or determinable for it under any regulation of this office other than the General Ceiling Price Regulation.

SEC. 5. *Calculation of base period percentage export markup.* (a) If you are a merchant exporter or a producer exporter and are entitled to a base period percentage markup under the provisions of section 3 or 4 of this regulation for the sale of a commodity covered by this regulation, such markup shall be calculated as set forth below. The markup derived for any product line shall be applied to each commodity falling within such product line (as defined in section 15 (b) (14)).

(1) You shall choose from the base period a representative calendar quarter for your export business. You shall refer to your business in this quarter for calculating markups for any commodity or product line sold by you under this regulation. However, if you had no sales of the commodity or product line being priced during the representative quarter, you shall take your sales for that commodity or product line in a quarter nearest in time to the representative quarter.

(2) You determine from your records for a representative calendar quarter of the base period all of your sales of the type upon which your base period markup is to be calculated, i. e., either sales of the commodity or product line you are pricing to the class of buyer for which you are pricing, or sales of a kind you are permitted to use under the provisions of section 6 of this regulation.

(3) You then determine the total dollar sales value of all such sales for each commodity or product line.

(4) You then select, from such sales, any sale or sales which accounted for at least 25 percent of your total dollar sales value of all such sales, and calculate the weighted average percentage markup reflected in such sales over your base period cost of acquisition if you are a merchant exporter, or over your base period domestic selling price if you are a producer exporter, as illustrated in the example below. The result is your percentage markup for sales of the commodity or product line you are pricing to the class of buyer involved. (If you selected a single sale, which accounts for 25 percent or more of your total dollar sales value of such sales, you may use the percentage markup yielded by that single sale.)

(i) *Example:* Suppose the base period sales upon which you are calculating your markup under the provisions of this section were as follows:

Sale	Cost of acquisition or domestic seling price	Costs of exportation [1]	Markup	Export sales price	Percentage markup over cost of acquisition or domestic selling price	Percentage of total sales
No. 1	$200	$26.00	$24.00	$250	12	5
No. 2	325	39.25	35.75	400	11	8
No. 3	950	55.00	95.00	1,100	10	22
No. 4	1,090	61.90	98.10	1,250	9	25
No. 5	1,750	92.50	157.50	2,000	9	40
				5,000		

[1] Not to be included in determining the markup.

(ii) You may select sales #1 and #3 in order to determine the markup. You may not select either sale #1 or sale #3 alone, since neither sale alone accounts for twenty-five percent of the total dollar sales value of base period sales. Taking a weighted average of the percentage markups yielded by the two sales (sale #1 yielding 12% or $24.00 and sale #3 yielding 10% or $95.00), you obtain a base period percentage markup of 10.34% ($24.00+$95.00÷$1,150.00).

(b) If you are a producer exporter and it was your customary practice during the base period to charge no export markup over your domestic prices on export sales of a particular commodity or product line to a particular class of foreign buyer, you cannot, under this regulation, now include any export markup over your domestic ceiling price when selling or offering the commodity or product line to that class of foreign buyer.

(c) If you are a producer exporter and it was your practice during the base period on sales by you of a commodity or product line for export to a merchant exporter to charge an export markup over your then current domestic price, you may continue to charge a markup not in excess of such markup over your domestic ceiling price on sales for export, provided you secure approval as required by section 7, of this regulation.

(d) In every case where you, whether merchant exporter or producer exporter, calculate for the first time the percentage markup you are going to use or do use in the export sale or sale for export of a commodity or product line covered by this regulation, you shall furnish the Office of Price Stabilization, Export-Import Branch, Washington 25, D. C. with the following information in duplicate:

(1) The commodity or product line;

(2) The class of buyer;

(3) Your representative calendar quarter;

(4) The percentage markup you are permitted to use under this regulation.

This information shall be reported within fifteen days after your first sale of the commodity or product line under this regulation, and may be provided on a form available at Office of Price Stabilization offices.

Once you have furnished such information for the sale of a particular commodity or product line to a particular class of buyer, you need not again advise the Office of Price Stabilization with respect to your pricing of that type of sale.

SEC. 6. *Formula where no sales of the type being priced were made during the base period.* (a) If you, either merchant exporter or producer exporter, did not sell during the base period the commodity or product line you are pricing to the class of buyer for which you are pricing, and if you are entitled under the provisions of section 3 or 4 of this regulation to a markup on such sale, such markup shall be calculated in accordance with section 5 of this regulation but shall be based on base period sales of the type set forth below in the following order of preference:

(1) Base period sales of the commodity or product line you are pricing to buyers of the class most closely related to the class for which you are pricing.

(2) Base period sales of a "comparison commodity" or comparison product line to buyers of the class for which you are pricing.

(3) Base period sales of a comparison commodity or comparison product line to buyers of the class most closely related to the class for which you are pricing.

If you calculate your base period percentage markup by reference to one of the types of base period sales set forth above, you shall, before making sales of the commodity or product line you are pricing, advise the Office of Price Stabilization, Export-Import Branch, Washington 25, D. C., by registered letter, and in duplicate, of the markup you propose to use, showing in detail how it was computed and naming the comparison commodity or comparison product line and/or class of buyer with respect to which your markup was calculated. The information may be provided on a form available at Office of Price Stabilization offices. Unless this proposed markup is rejected by the Office of Price Stabilization within ten days of the postmarked date of your letter, you may proceed with sales until advised to the contrary.

(b) If you are unable to compute a markup for the commodity or product line you are pricing, under paragraph (a) of this section, or under any provisions of this regulation, you may apply in writing to the Office of Price Stabilization, Export-Import Branch, Washington 25, D. C., for the establishment of a markup which is in line with the markup currently prevailing in the trade. Your application shall contain (1) an explanation of why you are unable to compute a markup under this regulation; (2) a complete description of the commodity or product line; (3) the type of sale being priced (i. e., export sale or sale for export) including the class of buyer involved; (4) the nature of your business; (5) the markup, if any, currently prevailing in the trade for the commodity or product line and how you determined this markup to be the one prevailing; and (6) your proposed markup for the commodity or product line, together with an explanation of the method by which it was computed. The information may be provided on a form available at Office of Price Stabilization offices. Unless this proposed markup is rejected by the Office of Price Stabilization within ten days of the postmarked date of your letter, you may proceed with sales until advised to the contrary.

ARTICLE III—GENERAL PROVISIONS

SEC. 7. *Restrictions on multiple handling.* If you are a producer exporter or a merchant exporter and sell for export a commodity covered by this regulation to a merchant exporter, you are allowed a markup on such sale or sales, provided you file an application with the Office of Price Stabilization, Export-Import Branch, Washington 25, D. C., establishing that it was your practice during the base period to sell to merchant exporters at a markup over your domestic selling price and stating the markup taken during the base period. If your application is approved, you may take on such sale or sales, and on similar future sales, a markup not in excess of the exact markup taken by you during the base period. You shall not take any markup on any such sale until your application therefor has been approved by the Office of Price Stabilization.

SEC. 8. *Transfer of business or stock in trade.* If the business, assets, or stock in trade of any business are sold or otherwise transferred after June 30, 1950, and the transferee carries on the business in whole or in part, or continues to deal in the same type of commodities, the markups of the transferee shall be the same as those to which the transferor would have been entitled if no such transfer had taken place, and his obligation to keep records sufficient to verify such prices shall be the same. The transferor shall either preserve and make available, or turn over to the transferee all records of transactions prior to the transfer which are necessary to enable the transferee to comply with the record provisions of this regulation.

SEC. 9. *Duties and taxes.* If you are a producer exporter or a merchant exporter and are computing a ceiling price under section 3 or 4 of this regulation for export sales or sales for export of any commodity covered by this regulation, you shall, in the case of the producer exporter, subtract from your applicable domestic ceiling price f. o. b. your plant, and in the case of the merchant exporter subtract from the domestic ceiling price of your supplier the following:

(a) The amount of any drawback or refund of import duties or excise taxes less the cost incurred in obtaining such amount;

(b) The amount of any excise tax not paid upon a commodity to be exported or sold for export but included in your applicable domestic ceiling price, if you are a producer exporter, or in the domestic ceiling price of your supplier if you are a merchant exporter.

SEC. 10. *Records.* (a) You shall preserve and keep available for examination by the Office of Price Stabilization for so long as the Defense Production Act is in effect and for two years thereafter those records showing how you determined the export markup you charged during the base period, and those records in your possession showing customary price differentials, and the conditions of sale, which you had in effect during the base period.

(b) You shall prepare and keep available for examination by the Office of Price Stabilization for a period of two years records showing for each sale or contract the commodity, the date, the names of the parties thereto, and the prices charged, together with any other records you customarily keep. If you are a merchant exporter, you must also maintain records showing the cost of the commodity or product line to you and the costs of exportation.

SEC. 11. *Exemptions.* (a) This regulation does not apply to sales of commodities for which export ceiling prices will hereafter be specifically established

under other regulations or supplements, or to sales of commodities which are specifically exempted from price controls by the Office of Price Stabilization.

(b) Nothing in this regulation shall operate to prevent the performance of a written contract for the export sale of a commodity entered into prior to July 30, 1951, and executed in compliance with the provisions of any validly existing regulation or order of the Office of Price Stabilization, provided that delivery is made on or before December 31, 1951.

(c) This regulation does not apply to export sales of any commodity by the United States Government or any agency thereof.

(d) This regulation does not apply to export sales of commodities which have been transported into the United States for transshipment abroad and which do not enter into the domestic commerce of the United States and which are either:

(1) Entered at Customs in transit on a "Transportation and Exportation (TE) entry" or on an "Exportation (Exp.) entry", or

(2) Stored in transit in a Customs bonded warehouse or stored in a foreign trade zone.

(e) This regulation does not apply to export sales of a commodity which has been processed or manufactured in bond under Customs supervision exclusively from imported materials, which is not withdrawn from bond for domestic consumption in the United States, and which is subsequently exported.

(f) This regulation does not apply to export sales of a commodity manufactured or produced from imported textiles or imported metals: *Provided*, (1) That the constituent imported components thereof make up not less than 90 percent by weight or unit of the exported commodity, and (2) that the Customs Drawback Regulations (Part 22, Customs Regulations of 1943) are complied with in all respects.

SEC. 12. *Evasion.* Any practice which results in obtaining indirectly a higher price than is permitted by this regulation is a violation of this regulation. Such practices include, but are not limited to, devices making use of commission, services, cross sales, transportation arrangements, premiums, discounts, special privileges, tie-in agreements or combination sales, and trade understandings.

SEC. 13. *Enforcement.* If you violate any provision of this Ceiling Price Regulation you are subject to the criminal penalties, civil enforcement actions, and suits for treble damages provided for by the Defense Production Act of 1950.

SEC. 14. *Petitions for amendment.* If you wish to have this regulation amended, you may file a petition for amendment in accordance with the provisions of Price Procedural Regulation 1, Revised, (16 F. R. 4974).

SEC. 15. *Definitions.* The terms used in this Ceiling Price Regulation shall be construed in the following manner:

(a) *Sellers and buyers*—(1) *"Producer exporter".* This term means a person who manufactures or produces the commodities he exports or sells for export.

(2) *"Merchant exporter".* This term means a person who is not a producer exporter but who exports or sells for export commodities purchased by him for his own account.

(3) *"Foreign government purchasing mission".* This term means an authorized representative of a foreign government who buys commodities and takes title thereto in the name of the foreign government.

(4) *"American firm purchasing in the United States for use in foreign field operations".* This phrase means only those American firms which buy commodities in the United States from producer exporters or merchant exporters, take title to same, transport such commodities to a foreign country and therein use such commodities without resale beyond their own organization.

(5) *"Supplier".* This term means the person from whom a merchant exporter procures a commodity which he exports or sells for export. This term does not include a merchant exporter, except as provided by section 7 of this regulation.

(6) *"Exporter".* This term means any person selling a commodity, either directly or through an agent, for delivery or shipment to any place outside the United States, its territories and possessions.

(7) *"Class of buyer".* This term means that group of persons to which you sell commodities covered by this regulation and which you distinguish from other groups of buyers with respect to quantity purchased or trade function. In the case of an export sale, the only permissible groupings according to function in the trade shall be: foreign governments or their agents, industrial end users, distributors, wholesalers, retailers, and individual consumers. In the case of a sale for export, the only permissible groupings according to function in the trade shall be: merchant exporters, foreign government purchasing missions, and American firms purchasing for use in foreign field operations.

(b) *Pricing*—(1) *"Domestic ceiling price of your supplier at point of delivery".* This phrase means the highest price at the point of delivery which a merchant exporter may, under applicable ceiling price regulations governing domestic sales, pay his supplier for a commodity which the merchant exporter subsequently exports or sells for export.

(2) *"Base period percentage markup."* This term means a percentage markup calculated in accordance with section 5 of this regulation based on sales during the base period, and representing, in the case of a producer exporter, the differential between base period domestic and export selling prices exclusive of costs of exportation for a commodity or product line, and in the case of a merchant exporter, the base period margin between his costs of acquiring a commodity or product line for exportation purposes and his export selling price therefor exclusive of costs of exportation.

(3) *"Commodity."* This term means materials, articles, products, supplies, and their components.

(4) *"Product line."* This term means and shall include all goods of the same general character and use which are normally classed together in your business for purposes of accounting or sales, and to which the same markup was applied in determining selling prices during the base period. You may, for example, have your product line under this regulation include a line of goods such as one of the following: Cups selling at $0.10–$0.50, all cups, all cups and saucers, all chinaware. The product line should be adequately described to indicate to the ordinary purchaser that a particular product line as reported to the Office of Price Stabilization includes a definite commodity being sold by you.

(5) *"Comparison commodity."* This term means a commodity exported or sold for export by you during the base period, which has general characteristics and use similar to those of the commodity you are pricing. Of the commodities having these same general characteristics and use, choose the commodity having a current unit direct cost closest to that of the commodity you are pricing.

(6) *"Base period domestic selling price."* This term means the domestic selling price during the base period of the commodity for which you, a producer exporter, are colculating your markup under section 5 of this regulation.

(7) *"Base period cost of acquisition."* This term means the actual cost to you, a merchant exporter, during the base period, of the commodity for which you are calculating your markup under section 5 of this regulation.

(8) *"Costs of exportation".* This term includes costs other than sales commissions actually incurred in or in connection with the export sale or sale for export of a commodity, over and above those incurred and included in the applicable domestic ceiling price if the commodity were sold for domestic consumption, including but not limited to the following: (i) Export packaging, (ii) local drayage, including waiting time at the dock, loading and unloading, tollage, switching, dumping and trimming, lighterage and wharfage, (iii) inland freight in the continental United States and in the country of delivery (at the export rate where applicable), (iv) ocean freight, (v) insurance, (vi) consular fees, blanks and certification, (vii) demurrage, (viii) costs incurred for storage at the port of exit while awaiting shipment, provided, the goods remain packed in the same form as they are to be exported, and have been stored in a warehouse or other storage facilities not owned or controlled by the exporter, (ix) fees paid to a freight forwarder not owned or controlled by the exporter, (x) bank collection charges, (xi) servicing, installing, inspection fees or special engineering costs either before or after exportation, and (xii) foreign taxes.

(9) *"Buyers of the class most closely related to the class for which you are pricing."* This phrase means the class of buyer to which you sold, during the base period, the commodity or product line you are pricing or a comparison com-

modity, and which is most similar to the class of buyer for which you are pricing, considering trade function, the terms of purchase and the quantity of the order.

(10) *"Your domestic ceiling price at point of delivery."* This phrase means the highest price at which you, a producer exporter, may, under applicable ceiling price regulations governing domestic sales of the commodity you are pricing for export, sell such commodity for domestic consumption at the point of delivery.

(c) *General*—(1) *"Base period."* This term means the period from January 1, 1949, to June 30, 1950, inclusive.

(2) *"Ceiling price."* This term means the highest price at which an export sale or sale for export of a commodity covered by this regulation may be made.

(3) *"General Ceiling Price Regulation."* This term means the General Ceiling Price Regulation issued on January 26, 1951, by the Office of Price Stabilization, as amended and supplemented.

(4) *"You or person".* This term includes any individual, corporation, partnership, cooperative association, or any other organized group of persons, or legal successors or representatives of the foregoing, and the United States or any government or their political subdivisions or agencies.

(5) *"Records".* This term includes but is not limited to books of account, sales lists, sales slips, orders, vouchers, contracts, receipts, invoices, bills of lading, and other papers and documents.

(6) *"Exportation".* This term means the delivery or shipment of a commodity, either directly or through an agent, from the United States or a territory or possession of the United States to any place outside the continental United States or a territory or possession of the United States.

(7) *"Export sale".* This term means the sale of a commodity to a person located outside the continental United States or a territory or possession of the United States, and which is shipped to the purchaser outside the continental United States or a territory or possession of the United States, regardless of where the invoicing is done.

(8) *"Sale for export".* This term means a sale to a buyer located in the continental United States or a territory or possession of the United States of a commodity destined for export and subsequent shipment, without resale, to any place outside the continental United States or a territory or possession of the United States.

SEC. 16. *Reports.* Copies of forms that may be used in filing under this regulation may be obtained from any Regional or District Office of the Office of Price Stabilization.

Effective date. This regulation shall become effective on August 6, 1951, or any earlier date at which you file information in accordance with section 5 (d).

NOTE: The record-keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 30, 1951.

[F. R. Doc. 51-8949; Filed, July 31, 1951; 4:22 p. m.]

[Ceiling Price Regulation 62]

CPR 62—TIRES AND TUBES, SALES BY MANUFACTURERS TO PRIVATE BRAND OWNERS

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), as amended, Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Ceiling Price Regulation 62 is hereby issued.

STATEMENT OF CONSIDERATIONS

Private brand owners are distributors of tires or tubes which are manufactured for them by others. The private brand tires and tubes, however, are handled and sold exclusively by the distributor who owns the brand and who in most respects is in the same position as a manufacturer handling his own brand. In almost every instance he owns the molds, assumes all responsibility for warranty, and, in many cases, even furnishes the basic raw materials. From a marketing standpoint, each private brand owner is in effect the primary seller of his brand assuming responsibility for advertising and selling expenses. In short, the brand owner is considered by all as the risk bearer. Accordingly, sales by manufacturers to private brand owners have generally been on a cost plus basis, with only a small margin over costs.

Private brand tire and tube sales have been governed by the provisions of the General Ceiling Price Regulation, which froze manufacturers' prices at the December 19, 1950–January 25, 1951, level. Maintenance of that specific price level for the future would result in one of two possibilities:

If costs increased, manufacturers would have their margins cut or eliminated entirely. Consequently, such manufacturers would tend to spurn private brand business, preferring to concentrate on sales of their own brands where the margin over costs permits greater absorption of cost increases. This diversion of manufacturing would be undesirable since private brand tires and tubes are, in many cases, marketed as low price items.

On the other hand, if costs decreased, manufacturers could maintain current prices, obtaining greater recoveries without passing on such savings to the brand owner who is the risk bearer, thus preventing price decreases to the consuming public on the private brand tire or tube sales.

Accordingly, in order to avoid any threat to the supply for private brand owners, and in order to conform with normal trade practice, a cost-plus pricing provision is provided for such sales. Under this provision, the ceiling price is determined for a quarter or longer by adding to the costs of the manufacturer the percentage markup which he had on sales to a particular buyer during a 90-day accounting period between January 1, 1950, and June 30, 1950. In addition, a special pricing method for manufacturers' sales of tubes to brand owners is permitted at specified minimum discounts from list price, as a more simplified means of establishing ceiling prices. However, no such ceiling price under any method may exceed the ceiling price of the seller to his lowest price class of buyer of his own (manufacturer's) brand unless the seller receives written approval of the Office of Price Stabilization. Reports must be filed with the Office of Price Stabilization and the reported prices are subject to adjustment by the Office of Price Stabilization. The ceiling prices that will result in the immediate future for manufacturers' sales of private brand tires and tubes are not expected to differ substantially from those presently in effect. In general, costs during the second quarter of 1951, upon which most of the forthcoming prices are based, are not significantly changed from those in December 1950, which formed the basis of many January 1951 General Ceiling Price Regulation prices. In the opinion of the Director of Price Stabilization, the retention of normal and established pricing methods in this industry will help assure a continued supply of tires and tubes for brand owners, who, in many cases, market such tires and tubes at generally lower prices.

In the judgment of the Director of Price Stabilization, this regulation is generally fair and equitable and will effectuate the purposes of Title IV of the Defense Production Act of 1950, as amended.

In formulating this regulation the Director has consulted with representatives of industry and has given consideration to their recommendations.

REGULATORY PROVISIONS

Sec.
1. What this regulation does.
2. Ceiling prices for manufacturers' sales to private brand owners.
3. Limitations and requirements.
4. Reports and approval of prices.
5. Records.
6. Special pricing method for tubes.
7. Adjustable pricing.
8. Taxes.
9. Petitions for amendment.
10. Prohibitions.
11. Charges lower than ceiling prices.
12. Evasion.
13. Penalties.

AUTHORITY: Sections 1 to 13 issued under sec. 704, Pub. Law 774, 81st Cong., as amended. Interpret or apply Title IV, Pub. Law 774, 81st Cong., as amended, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.

SECTION 1. *What this regulation does.* This regulation establishes manufacturers' ceiling prices for sales of new rubber tires and tubes to the brand owner of the tires and tubes, even though the purchasing brand owner may also be a tire and tube manufacturer. "New rubber tires and tubes" include all new tires and tubes for automobiles, trucks,

buses, trailers, off-the-road equipment, farm implements, tractors, industrial equipment, bicycles, airplanes and motorcycles. This regulation supersedes any other regulation issued by the Office of Price Stabilization as to transactions covered by this regulation. This regulation applies in the forty-eight States of the United States, and in the District of Columbia. This regulation does not apply to sales of the manufacturer's own brand of tire or tube.

SEC. 2. *Ceiling prices for manufacturers' sales to private brand owners.* If you manufacture new rubber tires or tubes and sell them to the brand owner thereof, your ceiling price for such sales is determined under any one of the three methods set forth in paragraph (a), (b) or (c) of this section, subject to the limitations and requirements set forth in section 3 of this regulation and subject further to the special pricing method for tubes set forth in section 6, below. However, after selecting method set forth in paragraph (a), (b) or (c) of this section for determining your ceiling price for sales to a particular purchasing brand owner, you may not use any other method for determining ceiling prices to that buyer without written permission to do so from the Office of Price Stabilization upon application setting forth your justification for such change.

(a) *Fixed price per tire or tube.* Your ceiling price under this paragraph shall be determined upon your first sale or delivery of each size and type of tire or tube to the particular purchasing brand owner by applying to the cost (determined pursuant to section 3 (b) of this regulation) of the particular size and type of tire or tube, the percentage markup (determined pursuant to section 3 (c)) applicable to that buyer. The price so established shall be your ceiling price for all deliveries of that size and type of tire or tube to that buyer for a period, agreed upon by the seller and buyer, of not less than 3 months or more than 6 months. You must report such prices to the Office of Price Stabilization, Washington 25, D. C., as required by section 4 of this regulation. At least 30 days before the end of each subsequent period, you must file another report containing the information required by section 4 (a) (3) (vi) of this regulation and must determine your ceiling prices for each subsequent period on the basis of the unit costs filed in such reports.

(b) *Aggregate prices for all sales during an accounting period.* Your aggregate ceiling price for all sales during an accounting period agreed upon by the buyer and seller (not less than 3 months or more than 1 year) of all types and sizes of tires or tubes to a purchasing brand owner during that period, shall be determined by applying to the aggregate costs (determined according to section 3 (b) of this regulation) the percentage markup (determined according to section 3 (c)) applicable to that buyer. You must file a report with the Office of Price Stabilization in Washington, D. C., in accordance with section 4 and thereafter if you and the buyer agree to change the accounting period you must notify the Office of Price Stabilization of such change within 10 days after the parties agree to the change.

(c) *Freeze of certain cost-plus contracts.* If between January 1, 1950 and June 30, 1950, you had in effect with a particular purchasing brand owner a written cost-plus contract, you may file a copy of such contract with the Office of Price Stabilization for approval. Such contract, if approved by the Office of Price Stabilization, shall determine your ceiling prices for sales to that buyer. The Office of Price Stabilization will approve such a contract if it is consistent with the requirements of this regulation with regard to costs, markups and accounting period.

SEC. 3. *Limitations and requirements*—(a) *Limitations.* Ceiling prices determined under any of the methods of section 2 may not exceed your ceiling price to your lowest price class of buyer on sales of your own brands of tires or tubes, unless you receive written permission from the Office of Price Stabilization, Washington, D. C., to apply section 2 without this limitation. Such permission will be granted only if you show that such action is consistent with the normal relationship between your prices on sales of your own brands to your lowest price class of purchaser and your prices to the particular purchasing brand owner for whom the price is being determined under section 2. If you have elected to determine your ceiling price pursuant to section 2 (a) of this regulation no individual size, grade or type of tire or tube may be sold for a price which exceeds the limitations imposed by this paragraph. If you have elected to determine your ceiling prices under section 2 (b) or (c) of this regulation, the aggregate amount collected during the accounting period may not exceed the aggregate price which could be charged for the same quantity of replacement tires or tubes of the same grade or quality when sold to your lowest price class of buyer of your own brands. If the buyer receives from the seller a writtent statement that the price charged does not exceed the ceiling price permitted by this paragraph, the buyer shall be deemed to have complied with this paragraph.

(b) *Requirements of cost computations.* The cost of any particular size or type of tire or tube or the aggregate costs of all types and sizes delivered to a particular purchasing brand owner shall be the sum total of direct labor cost, direct material cost including waste, factory overhead, warehouse and shipping expense, administrative expense, and other expenses. The method of computing costs shall be the same method actually used during the 90 day period selected under paragraph (c) of this section. If you elect to determine your ceiling price under paragraph (a) of section 2, the cost shall be the actual cost of producing and selling the tire or tube to the particular buyer for the last complete quarter prior to the filing of the report required by section 4, except that cost increases or decreases in your cost of rubber, rayon and cotton and direct labor expected during the following accounting period may be reflected as part of the total cost if set forth separately and in detail. At the end of the following accounting period, you must recalculate your costs to determine the correctness of the anticipated increase or decrease. Such recalculation shall be filed with the Office of Price Stabilization, Washington, D. C., in the same manner as the report required above. Upon approval by the Office of Price Stabilization, the buyer and seller may adjust any under-collection and must adjust any over-collection. If you made no sales to the particular purchasing brand owner during the last complete quarter prior to the filing of the report required by section 4, you shall use estimated current costs of producing and selling the tires or tubes to the particular buyer, rather than actual costs. However, within 60 days after the first 3 months of actual production of the tires or tubes for the particular buyer, you must file the report required by section 4 using actual costs for the 3 months period. If you elect to determine your ceiling price under paragraph (b) of section 2, the cost shall be the aggregate actual costs of producing and selling all tires and tubes sold to the particular purchasing brand owner during the accounting period for which a ceiling aggregate price is being determined. In such cases, no anticipated cost increases or estimated costs may be included.

(c) *Requirements of markup computations.* The percentage markup to be applied under paragraph (a) or (b) of section 2, shall be the markup on all sales of tires and tubes to the particualr purchasing brand owner during any 90 day accounting period between January 1, 1950 and June 30, 1950. The markup shall be determined by subtracting from the total aggregate net sales of tires and tubes to the particular buyer during the period selected, the total actual aggregate costs as described in paragraph (b) of this section, and expressing the remainder as the percentage of the total aggregate costs. Aggregate net sales shall be the sum of all billings made during the period selected for all the tires and tubes of that brand sold to the particular brand owner less returns and allowances. If you made no sales to the particular buyer between January 1, 1950, and June 30, 1950, you will use a percentage markup consistent with percentage markups determined under this regulation. The Office of Price Stabilization may approve, modify or disapprove, and may at any time after approval, correct markup computations to make them consistent with the level of markup computations under this regulation.

SEC. 4. *Reports and approvals of prices*—(a) *Fixed price.* (1) If you use paragraph (a) of section 2 to determine your ceiling price for tires or tubes, you must file with the Office of Price Stabilization, Washington 25, D. C., the report required in subparagraph (3) of this paragraph within 30 days after the effective date of this regulation or within 10 days after the particular buyer first agrees to buy tires or tubes for which a ceiling price must be determined under this regulation, whichever is later. In addition, you must file another report

containing the information required by subparagraph (3) (vi) of this paragraph at least 30 days before the end of the first period agreed upon by you and the buyer, and at least 30 days before the end of each subsequent period.

(2) You may not accept payment for any such tires or tubes in subparagraph (1) of this paragraph (unless specifically authorized to do so by the Office of Price Stabilization, Washington 25, D. C.) until the reported ceiling prices are approved by the Office of Price Stabilization. The reported ceiling prices, however, shall be deemed to be approved unless within 20 days after the mailing of the report or within 20 days after the mailing of any additional information which the Office of Price Stabilization may request, the Office of Price Stabilization disapproves the proposed ceiling price or requests additional information. The Office of Price Stabilization may approve or disapprove, and may at any time after approval, correct ceiling prices reported under this section so as to make them consistent with the level of ceiling prices established under this regulation.

(3) The report to be filed shall contain the following information:

(i) Name and address of brand owner, and brand or brands of tires or tubes being priced.

(ii) Total aggregate net sales of tires and tubes to the particular brand owner during the 90 day accounting period selected between January 1, 1950 and June 30, 1950, referred to in section 3 (c) of this regulation.

(iii) Total actual aggregate cost applicable to sales reported in subdivision (ii) of this subparagraph, showing as separate subtotals:

(*a*) Total factory costs;

(*b*) Total warehousing and shipping expense;

(*c*) Total administrative expense;

(*d*) Total other expense, if any.

(iv) A description of the method used in determining items (*a*), (*b*), (*c*), and (*d*) of subdivision (iii) of this subparagraph.

(v) The percentage markup on cost resulting from sales during period selected in subdivision (ii) of this subparagraph. If you made no sales to the particular buyer between January 1, 1950 and June 30, 1950, you will report the markup requested and state why it is consistent with other markups determined under this regulation.

(vi) Unit costs (showing same subtotals required in subdivision (iii) of this subparagraph) for each size and type of tire or tube for which a ceiling price is being determined. The costs reported shall be actual costs of producing and selling the tire or tube to the particular buyer for the last complete quarter prior to the filing of the report, computed by the same method of computing costs as the method actually used during the 90 day period reported under subdivision (ii) of this subparagraph. Any increases or decreases in your cost of rubber, rayon or cotton and in direct labor, expected during the following accounting period must be shown separately and in detail. If no sales were made to the particular buyer during that quarter, estimated current production and sales expenses shall be reported for each size and type of tire or tube. If estimated costs must be used, or if expected cost changes are used, the information required by this subdivision (vi) shall be refiled with the Office of Price Stabilization not later than 60 days after the first three months of production and sales to the particular buyer. At the time of refiling, actual costs for the three months period shall be reported for each size and type of tire or tube and new prices must be reported based on such actual costs.

(b) *Aggregate prices.* (1) If you use paragraph (b) of section 2 to determine your ceiling price for tires or tubes you must submit the report required in paragraph (a) (3) of this section except that you need not include the information required by subdivision (vi), of paragraph (a) (3) of this section. Such report shall be filed with the Office of Price Stabilization, Washington 25, D. C., within 30 days after the effective date of this regulation or within 10 days after a particular buyer first agrees to buy tires and tubes for which a ceiling price must be determined under this regulation, whichever is later. Such report must also be filed with the Office of Price Stabilization, Washington, D. C., within 90 days after each accounting period used under section 2 (b) of this regulation. The reported ceiling prices shall be deemed approved unless within 20 days after the mailing of the report, or within 20 days after the mailing of any additional information which the Office of Price Stabilization may request, the Office of Price Stabilization disapproves the proposed ceiling price or requests additional information. The Office of Price Stabilization may approve, modify or disapprove, and may at any time after approval, correct ceiling prices reported under this section so as to make them consistent with the level of ceiling prices established under this regulation. On or before the end of the accounting period, payment on account may be received and payment on account may be made, pursuant to your billings. Such payments, however, must be adjusted for any over-collection and may be adjusted for any under-collection as a result of a different ceiling price approved by the Office of Price Stabilization.

SEC. 5. *Records*—(a) *Buyers' and sellers' records.* Every person making a sale or purchase of a tire or tube subject to this regulation shall keep for inspection by the Office of Price Stabilization, for two years after the particular sale or purchase, accurate records of each such sale or purchase, showing the date, the name and address of the buyer and seller, the price paid or received, and the quantity of each brand, type, and size of new rubber tires or tubes sold or purchased.

(b) *Sellers' records.* In addition, if you are the manufacturer of such tires or tubes, and determined your ceiling prices under paragraph (a), (b) or (c) of section 2, you shall keep for inspection by the Office of Price Stabilization, so long as the Defense Production Act of 1950 remains in effect and for two years thereafter, accurate records for each particular buyer whose ceiling prices are determined under this regulation. The records shall include total aggregate costs showing sub-totals for factory costs, warehousing and shipping expense, administrative expenses, and other expense, computed by the same method of computing costs as the method actually used during the 90 day period reported under section 4.

SEC. 6. *Special pricing method for tubes.* Notwithstanding any other provision of this regulation, if you manufacture new rubber tubes sold to the brand owner thereof; you may elect to determine your ceiling price for such tubes by deducting a minimum discount of 60 percent from the brand owner's suggested retail list price of each tube of a given size and type. If you establish your ceiling prices under this section for any tube sold to a particular brand owner, you must use it as well for all other tubes sold to that buyer.

SEC. 7. *Adjustable pricing.* Nothing in this regulation shall be construed to prohibit your making a contract or offer to sell a commodity at (a) the ceiling price in effect at the time of delivery or (b) the lower of a fixed price or the ceiling price in effect at the time of delivery. You may not, however, unless specifically authorized by the Office of Price Stabilization, deliver or agree to deliver a commodity at a price to be adjusted upward in accordance with any increase in a ceiling price after delivery.

SEC. 8. *Taxes.* The Federal excise tax on new tires and tubes, if stated separately by you, may be added to the ceiling prices of any new tires and tubes. Any other tax upon, or incident to, the sale, delivery, or processing or use of a tire or tube, imposed by any statute of the United States or statute or ordinance of any state or subdivision thereof, shall be treated as follows: If the statute or ordinance imposing such tax does not prohibit you from stating and collecting the tax separately from the purchase price and you do state it separately, you may collect, in addition to the ceiling price, the amount of the tax actually paid by you.

SEC. 9. *Petitions for amendment.* If you wish to have this regulation amended, you may file a petition for amendment in accordance with the provisions of Price Procedural Regulation 1.

SEC. 10. *Prohibitions.* (a) On and after the effective date of this regulation, regardless of any contract or other obligation, (1) you shall not sell or deliver or offer, attempt or agree to sell or deliver any commodity subject to this regulation at a price exceeding your ceiling price as determined under this regulation, and (2) no brand owner shall buy or receive or offer, attempt or agree to buy or receive from you any commodity subject to this regulation at a price exceeding your ceiling price as determined under this regulation.

(b) On and after the effective date of this regulation you shall not accept payment or offer, attempt or agree to accept payment for any commodity subject to

this regulation unless you have complied with the report requirements of section 4.

SEC. 11. *Charges lower than ceiling prices.* Lower prices than those established under this regulation may be charged, demanded, paid or offered.

SEC. 12. *Evasion.* Any practice which results in obtaining indirectly a higher price than is permitted by this regulation is a violation of this regulation. Such practices include, but are not limited to, devices making use of commission arrangements, premiums, discounts, special privileges, tie-in agreements and trade understandings.

SEC. 13. *Penalties.* Persons violating any provision of this regulation are subject to the criminal penalties, civil enforcement actions, and suits for treble damages provided for by the Defense Production Act of 1950.

Effective date. The effective date of this regulation is August 1, 1951.

NOTE: The record-keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

MICHAEL V. DISALLE,
Director,
Office of Price Stabilization.

JULY 30, 1951.

[F. R. Doc. 51-8937; Filed, July 31, 1951; 2:47 p. m.]

[Ceiling Price Regulation 63]

CPR 63—LUBRICATING OILS, GREASES, WAXES AND CERTAIN OTHER PETROLEUM PRODUCTS

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.), Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738), this Ceiling Price Regulation 63 is hereby issued.

STATEMENT OF CONSIDERATIONS

This regulation is the fourth to be issued by the Office of Price Stabilization covering petroleum products. It applies to wholesale sales of stock lubricating oils, industrial lubricating oils, waxes, petrolatums, and all other petroleum products which are not covered by other price regulations except asphalt and asphalt products which will be covered by a separate regulation. The marketing of these products represents a sufficiently particularized and segregated aspect of the petroleum industry to make desirable, from the standpoint of efficient administration, the issuance of a separate regulation. This view is concurred in by representative members of the petroleum industry.

The regulation is of the formula-freeze type, but it is the intent of the Director of Price Stabilization to spell out specific dollar and cents prices for stock lubricating oils, waxes and petrolatums in principal marketing centers as quickly as studies now under way are completed. The ceiling prices established by this regulation are substantially the same as those provided by the General Ceiling Price Regulation. In common with the other specific regulations issued to date covering the products of the petroleum industry, the base period of December 19, 1950, to January 25, 1951, inclusive is adopted. The reasons for the selection of this base period are set forth in the Statement of Considerations issued with Ceiling Price Regulation 17. Also, as distinguished from the General Ceiling Price Regulation, this regulation defines the highest price charged during the period December 19, 1950, to January 25, 1951 inclusive, in such a way as to exclude from use in the calculation of ceiling prices sales made in the afore-mentioned base period pursuant to pre-existing contracts which were not adjustable to reflect market conditions at or about dates of deliveries thereunder. This provision embodies the principle of establishing ceiling prices on the basis of current market conditions prevailing in the base period.

A segment of the petroleum industry affected by this regulation purchases large quantities of non-petroleum products including agricultural commodities such as tallow, lard, castor oil and linseed oil. These commodities are used in compounded petroleum products for a wide variety of automotive and industrial applications. Due to substantial increases in the costs of these products and of shipping containers representing a significant element of cost to the industry, substantial reductions of margins have resulted since June 1, 1950. Representations have been made to the Office of Price Stabilization that failure to provide for adjustments in ceiling prices because of such increased costs might result in an interruption in the supply of many industrial lubricants vital to the defense effort. Moreover, since June, sellers have not priced uniformly on the basis of their increased costs. Many companies, particularly those working on short inventories, advanced their selling prices in conformity with their new costs. Other companies did not, but as a result of such higher costs many of these were contemplating changes in their selling prices during November and December to be made effective early in 1951. There is normally a time lag of between 60 and 90 days between pronounced changes in costs and their reflection in selling prices by this segment of the industry. On December 18, 1950, the Economic Stabilization Agency made a request of 31 principal refiners to hold in abeyance voluntarily any contemplated price increases pending the completion of price analyses of the industry. This request for voluntary cooperation was extensively publicized by industry trade journals and compliance appears to have been general. Consequently, with the issuance of the General Ceiling Price Regulation, a number of traditional price relationships which were distorted during this period were frozen into ceilings. To correct this situation, the regulation permits sellers to apply for an adjustment of their ceiling prices when, due to temporary conditions, such ceiling prices are either inconsistent with their customary pricing practices or their customary price relationship to other sellers of their class.

The regulation also makes provision to allow a refiner, blender or compounder whose total costs of components of a product on March 15, 1951, exceed by more than 5 percent such costs on June 1, 1950, because of a change in the costs of the purchased components entering directly into the product and/or the non-returnable container used for shipping such product, to modify his ceiling price for the product to reflect the dollar and cents increased costs of purchased components and/or non-returnable containers. However, this adjustment is subject to the proviso that in computing the amount that may be added to ceiling prices there shall be deducted from the increased costs the amount by which the seller's ceiling price on March 15, 1951, exceeds his selling price on June 1, 1950. The effect of this provision is to restore and maintain dollar and cents margins in existence during the period immediately prior to the outbreak of hostilities in Korea for a large number of compounded petroleum products. It also substantially reduces an existing distortion in the price relationship between compounded and uncompounded products of the industry. In adopting the stipulation that the increase or decline in costs shall be more than 5 percent before a change in ceiling prices may be made or required, the Director of Price Stabilization gave consideration to the desirability of preventing every change in cost, no matter how infinitesimal, from being reflected in ceiling prices and to the customary practice of the petroleum industry of maintaining stable consumer prices within tolerable limits of cost variations. However, it is recognized that in some cases the 5 percent requirement may result in a distortion in the customary price relationships maintained by a seller on a given line of petroleum products. Accordingly, any seller who believes that meeting this requirement is a cause of such distortion may request that consideration be given to the special circumstances involved.

The above formula differs from that used in Ceiling Price Regulation 22 in several respects. Under Ceiling Price Regulation 22 sellers establishing their ceiling prices adjust their pre-Korean prices by adding to such prices an adjustment factor to reflect advances in labor and material costs. This is designed to preserve pre-Korean margins and to eliminate inflationary price increases not justified by cost increases in the post-Korean period. The adjustment procedure incorporated in this regulation allows a seller the choice of adopting either his base period ceiling price for a particular compounded product or of adjusting his June 1, 1950, selling price for the increased costs of purchased components and/or containers since that date. In computing increased costs, no allowance may be made for labor costs or increases in manufacturing costs of products directly produced from a seller's own refinery. Thus, the formula is narrower than the one in Ceiling Price Regulation 22. In adopting this limited adjustment factor, the Director was guided by the extreme difficulty of ascertaining a generally ac-

ceptable basis for allocating costs of products produced in a multiple products refinery. It is customary industry practice to impute a value to its products, such imputation being predicated on market values rather than cost. Because of this arbitrary costing method, it was deemed impracticable to reflect in total cost the changes in these imputed values since the pre-Korean period. It was deemed undesirable for this reason, among others, to require a recalculation of all ceiling prices as provided by Ceiling Price Regulation 22. Such a recalculation would necessitate the adoption of arbitrary cost imputations to determine total cost changes. Also, to require reductions where price changes exceed the increases in the costs of purchased components or containers alone would be impractical because such price changes may have reflected total cost changes not accounted for in the formula.

The regulation also authorizes the addition to ceiling prices of transportation rate increases occurring between January 26, 1951, and May 15, 1951, inclusive, which have been authorized by Federal or State regulatory bodies or the Office of Price Stabilization. This provision has been adopted because transportation charges represent a significant element of cost in the case of many products governed by this regulation due to the long distances over which they are transported, often in small volume. Moreover, such products are frequently sold on narrow margins which are insufficient to allow marketers to absorb transportation rate increases.

One of the more serious problems confronting the petroleum industry is the growing scarcity of steel containers which are indispensable to the distribution of petroleum products. Customarily the petroleum industry sells a substantial portion of its products on a non-returnable drum basis. It has now become imperative that drums be returned to primary sellers, necessitating that such sellers shift from a non-returnable to a returnable drum basis. Since drums had a value during the base period to purchasers who are now required to return them, it is equitable that an allowance be made to such purchasers for the loss of value involved. Such value was variable depending upon the disposition individual purchasers made of these drums, and it is not possible to ascertain such values with any degree of accuracy. In the judgment of the Director of Price Stabilization, it is desirable that these values be specific and uniform and in conformity with the ceiling prices established for raw used drums purchased by container reconditioners. The specific allowances set forth in this regulation conform, therefore, to the ceiling prices as established for raw used drums under Ceiling Price Regulation 36, Used Steel Drums, effective May 16, 1951.

At the present time there exists a variance among suppliers in their ceiling deposit charges for returnable drums. Provision is made in the regulation to allow a uniform deposit charge of $10 for 55-gallon steel drums and lesser appropriately related amounts for smaller size drums. This is designed to make possible a uniform deposit system for the petroleum industry and to provide a maximum deposit charge for sellers who since the base period have converted from a non-returnable drum basis to a returnable drum basis. The deposit charges are higher, in some instances, than actually charged by suppliers during the base period, but under prevailing circumstances such higher deposits appear warranted. Moreover, although these deposit charges are also higher than replacement cost, they are not so high that they may be considered susceptible to evasive use.

A characteristic feature of the segment of the industry covered by this regulation is the large number of new products it constantly introduces to improve industrial processes and to meet novel and exacting engineering requirements. In establishing new product pricing methods and procedures, convenient and, where possible, practically automatic pricing mechanisms are provided for reaching sound results. The regulation contains three methods for establishing ceiling prices for new products.

(1) *Minor differences method.* For any new product that differs from a product for which a ceiling price has been established under the regulation only by reason of minor differences in composition which do not prevent its offering substantially equivalent serviceability, the ceiling price for such product shall be the same as the ceiling price for the product from which it differs only because of such minor changes. Specifically, if the minor changes do not reduce or increase the cost of the product for which a ceiling price has been established by more than 5 percent and if the new product will render substantially equivalent serviceability, the ceiling price remains unchanged. Sellers pricing under this provision are not required to file with the Office of Price Stabilization since it is the intent of the Office of Price Stabilization to reduce the reporting burden both on industry and government whenever possible. The requirement of "substantially equivalent serviceability" is intended to preclude the risk of product deterioration which may not be reflected in ceiling prices. At the same time, the provision makes possible changes of an inconsequential nature, either to meet more perfectly an engineering requirement or because identical components are not available, without disturbance of ceiling prices. By further requiring that the difference in cost shall be confined to 5 percent, a greater degree of price stability is assured. However, provision is made for sellers who believe that a hardship results from this requirement to use the "Comparable Products Margin Method" of pricing.

(2) *Comparable Products Margin Method.* This method permits a seller who cannot price under other provisions of the regulation to determine his ceiling price on the basis of the average of the percentage mark-ups on two of the seller's comparable products on which he has established ceiling prices. The seller chooses his two most comparable products, one next lower in cost and one next higher in cost; calculates the percentage markup included in the ceiling price of each product; takes an average of these two percentage mark-ups, and uses this figure in determining his mark-up in the new ceiling price.

Comparability of products is determined on the basis of similarity of end use and proximity of costs. Two products are of similar end use if sold for the same general purpose such as motor oils, gear lubricants, quenching oils. However, consideration is to be given to products of similar specifications and composition. Having similar end use, products may be considered comparable if their costs do not vary by more than 20 percent.

For resellers, current delivered costs of the products are to be used as costs in making comparisons. For blenders and compounders, the costs to be used are current delivered costs of components. For refiners on the other hand, while using current delivered costs for the components they purchase, some other value factor must be used for components they produce. It is recognized that it is not possible to determine the actual cost of a product produced in a multiple product refinery. Therefore, in evaluating such a component, the refiner must use the refinery value, inventory value, works billing price, or some other appropriate value which has been imputed to the component during the base period as evidenced by accounting records maintained for this purpose. This value factor must have been customarily used for evaluating the components of the new product as well as for the comparable products. Although the use of this method will not always result in 100 percent accuracy in determining margins, particularly when the proportion of purchased to produced components varies greatly for the products being compared, it nevertheless provides as satisfactory a method as possible for the purpose of determining new ceiling prices under this provision, and will result in ceiling prices which are in line with other prices established by the regulation. A form is provided for reporting to the Office of Price Stabilization ceiling prices established by this "comparable products margin method." Upon filing the price determined by use of this method, the price so established is the seller's ceiling price until changed or disapproved by the Office of Price Stabilization.

(3) *Final Pricing Method.* When the "comparable products margin method" cannot be used, the seller is permitted to establish a ceiling price in line with the level of ceiling prices otherwise established by this regulation. In substantiation thereof, the seller is required to submit certain specified information.

In establishing the foregoing pricing methods and procedures, the Director of Price Stabilization has given careful consideration to their adaptation to the customary practices of the industry so as to provide as flexible an instrument as possible within the general context of price controls.

Prior to the formulation of this regulation the Director of Price Stabilization advised with a large number of persons representing a substantial part of the industry and the regulation has been re-

viewed by the Petroleum Industry Advisory Committee for Lubricating Oils, Industrial Oils, Waxes and Petrolatums established by the Director of the Office of Price Stabilization.

FINDINGS OF THE DIRECTOR OF PRICE STABILIZATION

In the judgment of the Director of Price Stabilization the ceiling prices established by this regulation are generally fair and equitable and are necessary to effectuate the purposes of Title IV of the Defense Production Act of 1950.

As far as practicable the Director of Price Stabilization gave due consideration to the national effort to achieve maximum production in furtherance of the objectives of the Defense Production Act of 1950; to prices prevailing during the period from May 24, 1950, to June 24, 1950, inclusive; and to relevant factors of general applicability.

REGULATORY PROVISIONS

SCOPE OF THE REGULATION

Sec.

CEILING PRICES

INCREASES PERMITTED OR REDUCTIONS REQUIRED

AUTHORITY: Sections 1 to 21 issued under sec. 704, Pub. Law 774, 81st Cong. Interpret or apply Title IV, Pub. Law 774, 81st Cong., E. O. 10161, Sept. 9, 1950, 15 F. R. 6105.

SCOPE OF THE REGULATION

SECTION 1. *Products covered and excluded.* (a) This regulation covers the following products:

Lubricating stock oils.
Engine crankcase oils.
Aviation engine oils.
Marine lubricating oils.
Railroad lubricating oils.
Industrial lubricating oils.
Lubricating greases.
Core oils.
Mineral seal oil.
Petroleum coke.
Petroleum resins.
White oils.
Household lubricating oils.
Upper cylinder lubricants and other specialty lubricants.
Cutting oils.
Process oils.
Microcrystalline and paraffin waxes.
Petrolatums.
Insecticidal base oils.
Naphthenic acids.
Mercaptans from petroleum.
Sulfonic acids from petroleum.
Crude sulfonates from petroleum.
Cresylates from petroleum.
Cresylic acids from petroleum.
Special liquid hydrocarbon polymers.
Acid sludges from petroleum.
Processed oils and compounds where the non-aqueous content is 50 percent or more of one of the foregoing.
All other petroleum products not included in other specific price regulations relating to petroleum products.

(b) The following products are specifically excluded from this regulation:

Chemicals derived from natural gas or petroleum hydrocarbons by catalytic or chemical conversion.
Resinous, viscous and elastic hydrocarbon polymers.
Hydrogen sulfide.
Products containing a major portion of petroleum derivatives primarily produced by non-petroleum industries.
Asphalt and asphalt products.

Ceiling prices for these products are to be determined by the following regulations whichever is by its terms applicable: The General Ceiling Price Regulation, Ceiling Price Regulation No. 17, Ceiling Price Regulation No. 22, or any other specific price regulation which may hereafter be issued covering these products.

SEC. 2. *Experimental sale.* The first sale to one or more companies for experimental purposes of any product covered by this regulation is exempt from all ceiling price regulations and orders.

SEC. 3. *Transactions and persons covered.* This regulation covers all types of sales and deliveries of products covered by this regulation either by refiners, blenders, resellers, or any other person except the following:

(a) *Retail sales.* Retail sales at retail establishments, including transactions through stationary retail facilities which are in conjunction with bulk plants, terminals, refineries, or wholesale establishments.

(b) *Exchanges.* Exchanges of petroleum products between refiners and other petroleum sellers, provided such exchanges conform to customary practices of the industry during the base period. Such exchanges are also exempt from all ceiling price regulations. The Office of Price Stabilization will not grant any increases in the ceiling prices of petroleum products covered by this regulation where the requested revision in price is due to the price at which such products have been exchanged.

(c) *Subsidiaries.* Sales between corporations when one is a wholly-owned subsidiary of the other, or when both are wholly-owned subsidiaries of a third corporation, and sales between such other affiliated or controlled corporations as are especially excepted by order in writing by the Director of Price Stabilization or his duly authorized representative, provided prices at which such sales are made do not affect the level of existing ceiling prices. Such sales are also exempt from all ceiling price regulations.

SEC. 4. *Geographical coverage.* The provisions of this regulation are applicable to the United States, its territories and possessions and the District of Columbia.

SEC. 5. *Imports.* Ceiling prices in this regulation shall apply even though the product involved originated outside of the area covered by the regulation and was imported into such area.

SEC. 6. *Transfers of business or stock in trade.* If the business, assets or stock in trade of any business are sold or otherwise transferred after January 26, 1951, and the transferee carries on the business or continues to deal in the same type of products in an establishment separate from any other establishment previously owned or operated by him, the ceiling prices of the transferee shall be the same as those to which his transferor would have been subject if no such transfer had taken place, and his obligation to keep records sufficient to verify such prices shall be the same. The transferor shall either preserve and make available or turn over to the transferee all records of transactions prior to the transfer which are necessary to enable the transferee to comply with the record provisions of this regulation.

SEC. 7. *Adjustable pricing.* Any person may agree to sell at a price which can be increased up to the ceiling price in effect at the time of delivery; but no person may, unless authorized by the Office of Price Stabilization, deliver at prices to be adjusted upward in accordance with action taken by the Director after delivery. Such authorization may be given when a request for a change in the applicable ceiling price is pending, but only if the authorization is necessary to promote distribution or production and if it will not interfere with the purposes of the Defense Production Act of 1950. The authorization may be given by the Director or by any official of the Office of Price Stabilization to whom the authority to grant such authorization has been delegated. The authorization will be given by order, except that it may be given by letter or telegram when the contemplated revision will be the granting of an individual application for adjustment.

SEC. 8. *Petitions for amendment.* Any person seeking an amendment of any provision of this regulation may file a petition for amendment in accordance with the provisions of Price Procedural Regulation No. 1.

SEC. 9. *Applications for adjustment.* (a) The Director of Price Stabilization may adjust by order any ceiling price established under this regulation for a seller when it appears:

(1) *Price inequities.* (i) That due to temporary conditions a seller has a ceiling price which is not in line with his customary pricing practice or with his customary price relationship with other sellers in the same marketing area.

(b) The seller applying under paragraph (a) (1) of this section shall show to the satisfaction of the Director:

(1) The basis upon which it is concluded that the ceiling prices are below normal, with a statement of how long the inequity has been in existence.

(2) The ceiling prices proposed.

(3) Information supporting why the proposed ceiling prices would be normal.

(4) A statement that the proposed ceiling prices will be in line with the level of ceiling prices otherwise established by the regulation.

(5) Applications for adjustment for price inequities shall be filed with the Petroleum Branch, Office of Price Stabilization, Washington 25, D. C.

SEC. 10. *Price revisions incident to orders establishing specific prices.* The Director of Price Stabilization may by supplementary regulation or by special order of general applicability establish specific ceiling prices or otherwise modify the provisions of this regulation with respect to certain products, transactions or geographical area.

SEC. 11. *Shifts which must be reported.* Where a seller has established a ceiling price on a delivered-at-destination basis at a given point for a particular petroleum product to a purchaser and thereafter sells such purchaser on an f. o. b. shipping point price basis, he shall report such shift to the Director of Price Stabilization within thirty days after the date such sale is made if the effect of selling on an f. o. b. shipping point price basis is to increase the laid-down cost to the purchaser above the seller's delivered-at-destination ceiling price to such purchaser. However, a seller may not shift to an f. o. b. shipping point price basis unless he has an f. o. b. shipping point ceiling price properly determined under the appropriate provisions of this regulation. The Director of Price Stabilization may by special order modify the terms and provisions applicable to such sales when in his judgment, the reported shift constitutes an evasion of the purposes of this regulation.

SEC. 12. *Records*—(a) *Record-keeping requirements.* (1) With respect to any commodity covered by this regulation the provisions of section 16 of the General Ceiling Price Regulation are hereby continued in effect insofar as they apply to the preparation and preservation of "base period records" and such "current records" as have been made as a result of sales between January 26, 1951, and the effective date of this regulation.[1]

(2) (i) You shall prepare and preserve for the life of the Defense Production Act of 1950 and for two years thereafter all records necessary to determine whether you have computed your ceiling prices correctly, including (but not limited to) records showing base period prices and product costs, and records showing costs, prices, and sales for the other applicable periods and dates referred to in the regulation.

(ii) The records to be preserved under this paragraph must include appropriate work sheets. The work sheets may be in any convenient form so long as they include all data and calculations required to determine your ceiling prices.

(3) You shall preserve for a period of two years all records showing the prices at which sales of commodities subject to the regulation have been made.

SEC. 13. *Compliance with this regulation required*—(a) *Prohibitions against selling or delivery of petroleum products at prices above the ceiling.* On and after the effective date of this regulation regardless of any contract or other obligation, no person shall sell or deliver and no person shall buy or receive in the course of trade or business any petroleum product covered by this regulation at prices higher than the ceiling prices fixed by this regulation, and no person shall agree, offer, solicit, or attempt to do anything prohibited in this section. Prices lower than the ceiling prices may be charged, demanded, paid or offered.

(b) *Customary price differentials.* The ceiling prices determined under this regulation shall reflect customary price differentials, including discounts, allowances and premiums in effect during the base period to all classes of purchasers.

(c) *Evasion.* The ceiling prices established by this regulation shall not be evaded either by direct or indirect methods in connection with the purchase, sale, delivery or transfer of petroleum products alone or in conjunction with any other materials, or by way of any commission, service, transportation, or any other charge, or discount, premium or other privilege, or by tie-in-agreement or other trade understanding or by a change in the quality of the product, or otherwise, except when such change in quality results from order of any agency of the United States Government.

(d) *Enforcement.* Any person who violates any provision of this regulation is subject to the criminal penalties, civil enforcement actions, and suits for damage provided for by the Defense Production Act of 1950.

SEC. 14. *Definitions*—(a) "Person" includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor and representatives of any of the foregoing, and includes the United States or any agency thereof, or any other government or any of its political subdivisions, or any agency of any of the foregoing.

(b) "Retail establishment" means the store, shop, garage, service station (land or marine), or other place of business at which the major portion of the sales of petroleum products is sold in customary small quantities to consumers.

(c) "Contract" means an agreement, the existence of which is established by written evidence.

(d) *"Comparable competitive product."* For a product of a particular seller to be regarded as comparable to the product of another seller, it must customarily have been so regarded in trade practice and it must be a product that has customarily been sold in competition with the product of such other seller.

(e) *"Offering price."* The price at which a product was offered means the price shown in the seller's price list, or if a particular price was not included therein, or if he had no price list, the price at which he offered products in any other written manner. Such prices shall be subject to the seller's customary allowances, discounts, and price differentials.

(f) *"End use."* Two products shall be considered as having similar end use if sold for the same general purpose; for example, products in each of the following categories may be considered as having similar end use; motor oils; pressure gun greases; gear lubricants; wheel bearing greases; hydraulic oils; rest preventives; cutting oils; turbine oils; quenching oils; textile oils; and ink oils. However, in making product comparisons under applicable provisions of this regulation, due consideration shall be given to products of similar specifications and composition. For example, if a new Pennsylvania motor oil is being priced, comparison shall be made with other Pennsylvania motor oils in the seller's line; if he has none, comparison shall then be made with those motor oils most nearly approximating the new product in specifications, e. g., Mid-Continent Solvent Refined.

(g) *"Purchaser of the same class."* This term refers to the practice adopted by the seller in setting different prices for a product for sales to purchasers performing different functions (for example, refiners; jobbers; distributors; commercial, industrial or private consumers) or for purchasers performing the same functions but located in different areas or buying in different quantities or grades or under different conditions of sale. Price is prima facie evidence but not conclusive evidence to be considered in determining if a purchaser belongs to a particular class; however, a lower price to a particular purchaser

[1] The portions of the General Ceiling Price Regulation here referred to are as follows:

SEC. 16. (a) *Base period records.* You must preserve and keep available, for examination by the Director of Price Stabilization those records in your possession showing the prices charged by you for the commodities or service which you delivered or offered to deliver during the base period. * * *

(2) In addition, on or before March 22, 1951, you must prepare and preserve a statement showing the categories of commodities in which you made deliveries and offers for delivery during the base period. * * *

(3) On or before March 22, 1951, you must also prepare and preserve a ceiling price list, showing the commodities in each category (listing each model, type, style, and kind), or the services, delivered or offered for delivery by you during the base period together with a description or identification of each such commodity or service and a statement of the ceiling price. Your ceiling price list may refer to an attached price list or catalog. * * *

(4) You must also prepare and preserve a statement of your customary price differentials for terms and conditions of sale and classes of purchasers, which you had in effect during the base period. * * *

(b) *Current records.* If you sell commodities or services covered by this regulation you must prepare and keep available for examination by the Director of Price Stabilization for a period of two years, records of the kind which you customarily keep showing the prices which you charge for the commodities or services. In addition, you must prepare and preserve records indicating clearly the basis upon which you have determined the ceiling price for any commodities or services not delivered by you or offered for delivery during the base period. * * *

"Base period" as used in section 16 of the General Ceiling Price Regulation means December 19, 1950, to January 25, 1951, inclusive.

which was to meet competition and was otherwise inconsistent with the seller's practice in setting the same price to purchasers in the same functional class shall neither result in placing the particular purchaser in a lower price class nor be considered in determining a seller's ceiling price.

(h) *"Sale."* The term "sale" for purposes of using the "ceiling price based on sales" method of section 16 shall include:

(1) Sales in the base period pursuant to oral or written contracts, including spot sales, made during such period.

(2) Written contracts made during the base period whether or not any deliveries were made thereunder, and written contracts made during the period June 1, 1950, to December 18, 1950, inclusive, under which no deliveries were made in the base period but which provided for performance to begin during or after the base period.

(3) Deliveries made during the base period under a contract made between June 1, 1950, and December 18, 1950, inclusive, if such contract was adjustable to reflect market conditions during the base period.

Provided, however, That in all cases deliveries made in the base period under contracts entered into prior to June 1, 1950, shall not be considered as a "sale," unless the buyer and seller agree to continue such contracts in which case the ceiling price may be established on the basis of such contracts.

(i) *"Base period".* This term means the period from December 19, 1950, to January 25, 1951, inclusive.

(j) *"Delivery point".* This term means the different customary price areas of the seller, such price areas being reflected by the seller on a stated price or differential basis. Each such price area shall be interpreted as a delivery point and the ceiling price of each seller in each such price area shall reflect his customary differentials or differences in prices.

CEILING PRICES

SEC. 15. *Specific ceiling prices for certain stock oils in bulk lots.* [Reserved].

SEC. 16. *Formula prices*—(a) *Ceiling price based on sales.* Where no applicable specific price has been established under section 15, the ceiling price of a seller for each product covered by this regulation at each shipping or delivery point shall be the highest price charged at that point by him during the period December 19, 1950, to January 25, 1951, inclusive, for a sale of such petroleum product to a purchaser of the same class.

(b) *Ceiling price based on offering price.* If a seller is unable to determine a ceiling price under paragraph (a) of this section, the ceiling price for such seller at each shipping or delivery point for each petroleum product covered by this regulation shall be the highest offering price at the shipping or delivery point during the period December 19, 1950 to January 25, 1951, inclusive, for sale of such petroleum product to a purchaser of the same class.

(c) Ceiling prices determined under paragraphs (a) and (b) of this section shall reflect the seller's customary allowances, discounts, and price differentials.

SEC. 17. *Seller unable to determine ceiling price*—(a) *Minor differences method.* Where a ceiling price for a particular product cannot be determined under the preceding methods of this regulation and where the product differs from another product for which a ceiling price has been determined under this regulation, only by reason of minor differences in composition which do not prevent its offering substantially equivalent serviceability, the ceiling price of the particular product shall be the same as that of the product for which a ceiling price has been established except that:

(1) *Refiners, blenders, and compounders.* A refiner, blender, or compounder may not use this provision if the current delivered cost of the components of the particular product varies from the current delivered cost of the components of the product for which such sellers have an established ceiling price by more than 5 percent of the current delivered cost of the original product.

In computing cost, a refiner shall use with respect to the components obtained from his own refinery operations the value which he placed on those components during the base period as evidenced by accounting records maintained for this purpose.

However, any seller subject to this provision who believes that an undue hardship is imposed upon him by pricing hereunder, may file a ceiling price under section 17 (b) stating the reasons why he should not be required to price under the minor differences method. When such a filing is made, the Director of Price Stabilization may review all prices established by the seller under the minor differences method and revise them if, in his judgment, the over-all application of this section in the particular seller's case results in ceiling prices not in line with ceiling prices established for other sellers subject to this minor differences method.

(2) *Resellers.* A reseller may not use this provision if the current delivered cost of the particular product varies from the current delivered cost of the product for which he has an established ceiling price by more than 5 per cent of the cost of the original product.

(b) *Comparable products margin method: Where the seller has comparable products sold during base period.* Where a ceiling price for a particular product cannot be determined under the preceding pricing methods, a seller shall establish his ceiling price on the basis of the average of the mark-ups on two comparable products.

(1) *Resellers.* A reseller shall select two products of similar end use on which he has established ceiling prices. The two products selected shall be closest in composition, specifications and current delivered costs to the product being priced. Of the two comparable products, one shall be next lower in cost to the new product and the other shall be next higher in cost. In no case shall any product be selected which varies by more than 20 per cent from the current delivered cost of the product being priced. The seller shall establish his ceiling price by (i) dividing the ceiling price for each such product by its current delivered cost; (ii) adding the resulting figures and dividing by two; (iii) multiplying the current delivered cost of the product priced by the figure obtained in subdivision (ii) of this subparagraph; (iv) copying the form, in subparagraph (3) of this paragraph, filling it in and forwarding by registered mail, return receipt requested, to the Petroleum Branch, Office of Price Stabilization, Washington 25, D. C.

(2) *Refiners, blenders and compounders.* A refiner, blender or compounder shall determine his ceiling price by the procedure for resellers in subparagraph (1) of this paragraph, using his current delivered costs for the components he buys. With respect to the components he manufactures, the refiner shall use in the place of current delivered costs of the components the value which he placed on such components during the base period, as evidenced by accounting records maintained for this purpose.

(3) *Filing provision.* The ceiling prices determined according to subparagraphs (1) and (2) of this paragraph shall be filed by registered mail, return receipt requested, within 15 days of the making of the sale, with the Petroleum Branch of the Office of Price Stabilization, Washington 25, D. C., in the form indicated below. Upon filing, the price shall be the seller's ceiling price for the particular product unless it is disapproved in writing or a different price is established by the Office of Price Stabilization. If he wishes, the seller may request a ceiling price before making a sale. A price established under this section may be changed at any time by order of the Office of Price Stabilization.

If a seller shall fail to report a ceiling price, the Office of Price Stabilization may establish his ceiling price for a particular product at the particular point, effective retroactively to the date of the making of the first sale of the product.

OFFICE OF PRICE STABILIZATION

REPORT OF CEILING PRICE

Section 17 (b)—Ceiling Price Regulation No. 63

Company name_____
Address_____
Product being priced_____
Unit of sale_____ Class of purchaser_____
1. Name_____
2. End use_____
3. Current delivered cost [1]_____
4. Ceiling price (line 3 multiplied by average ratio below)

Comparable products having the same end use on which seller has established ceiling prices:
Unit of sale_____ Class of purchaser_____

	Column 1 Name	Column 2 Ceiling price	Column 3 Current delivered cost [1]	Column 4 Ratio: Column 2 divided by column 3
Product No. 1				
Product No. 2				
Total column 4				
Average ratio (total column 4 divided by 2)				

[1] Current delivered cost to be used by resellers. Refiners for components from own operations use value placed on the product during the base period as evidenced by accounting records maintained for this purpose.

(c) *Final pricing method: New products where the seller has not sold comparable products during base period.* If under other provisions of this regulation, a seller is unable to determine his ceiling price at a given shipping or delivery point for any product covered by this regulation, the seller may nevertheless make a sale of such product at that point. If he wishes, he may request a ceiling price before making a sale. Within 15 days after making such a sale, the seller shall file by registered mail, return receipt requested, with the Petroleum Branch, Office of Price Stabilization, Washington 25, D. C., a written request for approval of a ceiling price including a statement setting forth:

(1) Why he cannot establish a ceiling price under the methods set forth above.

(2) The name, established ceiling price, end use, pertinent specifications, composition and current delivered cost of the seller's product which is most comparable to the new product.

(3) The proposed ceiling price, class of purchaser to whom applicable, the method used to determine it and the reason why the seller believes the proposed price is in line with the level of ceiling prices otherwise established by this regulation.

(4) Names and established ceiling prices of two "comparable competitive products" giving the information which the seller is able to obtain regarding the pertinent specifications and end use of such products. If the seller or any other seller has an established ceiling price or prices at other points for the same commodity for which a tentative price is herein established, such prices for the three nearest points.

(5) Any other information which the seller can give to substantiate the ceiling price he is filing. The price filed shall be the seller's ceiling price unless it is disapproved in writing or a different price is established. A price established under this section may be changed at any time by order of the Office of Price Stabilization. If a seller shall fail to report a ceiling price, the Office of Price Stabilization may upon written notice to the seller establish his ceiling price for the particular product at the particular point, effective retroactively to the date of the making of the first sale of the product.

INCREASES PERMITTED OR REDUCTIONS REQUIRED

SEC. 18. *Transportation.* (a) There may be added to the applicable ceiling prices determined under other sections of this regulation an amount not in excess of the following:

(1) The exact amount of increase in transportation costs to the seller or his reseller customer resulting from transportation rate increases including excise taxes applicable to such rate increases between January 26, 1951, and May 15, 1951, inclusive, permitted by Federal or State regulatory bodies or by the Office of Price Stabilization.

(2) Where transportation is in facilities owned or controlled by the seller the same increases as provided in subparagraph (1) of this paragraph where the movement involved is in lieu of transportation by such regulated carrier.

SEC. 19. *Taxes.* Any seller may collect, in addition to the ceiling prices established by this regulation, any new excise, sales, or similar tax imposed upon him after January 25, 1951, by reason of his sales of any of the products covered by this regulation if he is not prohibited by law from making such collection and if he states separately from his selling price the amount of the tax collected.

SEC. 20. *Changes in the costs of purchased products, components and containers*—(a) *Refiners, blenders and compounders.* When a refiner's, blender's or compounder's total cost of components of a product on March 15, 1951 exceeds by more than 5 percent, his total cost of components on June 1, 1950 because of a change in the costs of the purchased components entering directly into the product and/or the non-returnable container used for shipping such product, he may modify his ceiling price for the product to reflect the dollar and cents increased costs of purchased components and/or non-returnable container.

However, in computing the amount that may be added to his current ceiling price for each class of purchaser, he shall deduct from his increased costs the amount by which his current ceiling price exceeds his June 1, 1950, ceiling price to that class. In computing costs of purchased components and/or non-returnable containers on June 1, 1950, and March 15, 1951, refiners, blenders and compounders shall use the delivered costs of these products less any discounts or allowances obtained (not including customary cash discounts) as of the dates nearest, but prior to and including June 1, 1950, and March 15, 1951. These costs for both prescribed dates shall be based on normal buying practices. For example, any cost based upon smaller quantity purchases or use of a more distant source of supply than customary would constitute departures from normal buying practices. Refiners, in computing total cost of components on June 1, 1950, shall use as delivered cost for the components obtained from their own refinery operations the value placed on such components on June 1, 1950, as evidenced by accounting records maintained for this purpose. Any seller having used this provision to increase his ceiling price for a product shall reduce this new ceiling price by the dollar and cents decreased costs of purchased components and/or non-returnable container when his total costs of components of the product and/or non-returnable containers subsequent to March 15, 1951, have decreased by more than 5 percent. In computing total costs, refiners, blenders and compounders shall use the applicable procedures set forth above.

(b) *Refiners, blenders and compounders performing the function of resellers and other resellers.* When the delivered cost of a product and the non-returnable container used in shipping such product to a reseller (including refiners, blenders and compounders who resell the product in the same form as purchased) on March 15, 1951, exceeds by more than 5 percent his cost on June 1, 1950, he may modify his ceiling price for the product to reflect his dollar and cents increased costs.

However, in computing the amount that may be added to his current ceiling price for each class of purchaser, he shall deduct from his increased cost the amount by which his current ceiling price exceeds his June 1, 1950, selling price to that class. Any seller having used this provision to increase his ceiling price for a product shall reduce this new ceiling price by the dollar and cents decreased cost of the product when its cost subsequent to March 15, 1951, has decreased by more than 5 percent.

(c) *Distortions.* Any seller modifying his ceiling prices pursuant to paragraphs (a) or (b) of this section, who finds that a distortion results in the customary price relationships among products of a particular series due to the 5 percent limitation requirement may request that ceiling prices be adjusted on all products in the series in order to maintain their customary price relationships. When such a request is made, the applicant shall submit to the Petroleum Branch, Office of Price Stabilization, Washington 25, D. C., (1) the same information as required under paragraph (e) of this section; (2) a statement of the reasons why a distortion in customary price relationships is created by the seller's use of section 20; (3) the ceiling prices requested; and (4) why the establishment of such ceiling prices will result in the maintenance of the seller's customary price relationships for the products involved. The ceiling prices requested because of distorted price relationships cannot be used until adjusted by order of the Director of Price Stabilization.

(d) *Resellers.* Where a refiner's, blender's or compounder's ceiling price for a petroleum product has been increased or decreased by the use of this section, the reseller's ceiling price for such product shall be modified by the amount of the dollar and cents difference in cost to him.

(e) *Filing provision.* Any seller using paragraph (a) or (b) of this section shall file by registered mail, return receipt requested, with the Petroleum Branch, Office of Price Stabilization, Washington 25, D. C., the following information:

(1) Selling price for the particular product on June 1, 1950.

(2) Ceiling price for the particular product as established under other provisions of this regulation.

(3) Ceiling price as determined by this provision.

(4) The identification and net delivered cost of the purchased product, components and/or non-returnable container on March 15, 1951, or the date nearest but prior thereto on which a purchase was made; the net delivered costs of the purchased product, components and/or non-returnable container on June 1, 1950, or the date nearest but prior thereto on which a purchase was made; and the costs at the time a recalculation is made to reflect decreased costs. Upon filing, the price shall be the seller's ceiling price for the particular product unless it is disapproved in

writing or a different price is established by the Office of Price Stabilization. A price established under this section may be changed at any time by order of the Office of Price Stabilization.

SEC. 21. *Containers*—(a) *Deposits.* Any seller subject to the provisions of this regulation may place deposit charges not to exceed the following amounts on the enumerated shipping containers, not including I. C. C. 5 or 5 B drums. Such deposit charges shall be subject to the seller's customary practice with respect to condition of drum and time allowed for return:

55-gallon or 400-pound, 16–20-gage steel drum	$10.00
30-gallon or 200-pound, 16–20-gage steel drum	6.00
15-gallon or 100-pound, 19–24-gage steel drum	4.00

(b) *Reduction in ceiling price when shifting from a non-returnable to a returnable drum basis.* Any seller who during the base period sold on a non-returnable drum basis and subsequent to the base period shifts to a returnable drum basis shall make the following allowances for return of drums to his purchasers except in the States of California, Washington and Oregon.

55-gallon or 400-pound, 16–20-gage steel drum	$1.75
30-gallon or 200-pound, 16–20-gage steel drum	1.50
15-gallon or 100-pound, 19–24-gage steel drum	1.00

In the States of California, Washington and Oregon, there shall be added an additional $0.25 to each of the allowances set forth above.

Effective date. This Ceiling Price Regulation shall become effective on August 6, 1951.

NOTE: The record-keeping and reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 30, 1951.

[F. R. Doc. 51-8948; Filed, July 31, 1951; 4:22 p. m.]

[General Ceiling Price Regulation, Supp. Reg. 48]

GCPR, SR 48—REMELT ZINC

Pursuant to the Defense Production Act of 1950 (Pub. Law 774, 81st Cong.) Executive Order 10161 (15 F. R. 6105), and Economic Stabilization Agency General Order No. 2 (16 F. R. 738) this Supplementary Regulation 48 to the General Ceiling Price Regulation is hereby issued.

STATEMENT OF CONSIDERATIONS

This supplementary regulation establishes dollars-and-cents ceiling prices for remelt zinc.

Remelt zinc is made from zinc scrap by a simple melting process. Zinc scrap prices were rolled back to a level below primary zinc by Ceiling Price Regulation 43, effective June 1, 1951.

The ceiling prices established by this supplementary regulation are designed to roll back the ceiling prices for remelt zinc to a level in line with the ceiling prices for zinc scrap under Ceiling Price Regulation 43, so that the savings achieved by that regulation may be passed on to the ultimate consumer.

REGULATORY PROVISIONS

Sec.
1. What this supplementary regulation does.
2. Ceiling delivered prices for remelt zinc.
3. Miscellaneous.

AUTHORITY: Sections 1 to 3 issued under sec. 704, Pub. Law 704, 81st Cong. Interpret or apply Title IV, Pub. Law 774, 81st Cong., E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

SECTION 1. *What this supplementary regulation does.* This supplementary regulation establishes ceiling prices for remelt zinc on a different basis from that now prevailing under the General Ceiling Price Regulation, in order to bring such prices into line with ceiling prices for zinc scrap under Ceiling Price Regulation 43.

SEC. 2. *Ceiling delivered prices for remelt zinc.* If you are a seller of remelt zinc, your ceiling delivered price for any quantity is 17¼ cents per pound for material with a minimum zinc content of 97½% or 12¼ cents per pound for material with a zinc content of less than 97½%, plus whichever of the following transportation charges is applicable:

(a) When delivery is made to the buyer's receiving point by way of a public (common or contract) carrier, an amount not in excess of the actual charge (including transportation taxes) made by such carrier;

(b) When delivery is made to the buyer's receiving point by a vehicle owned or controlled by the seller, an amount not in excess of the lowest published and applicable common carrier charge (not including transportation taxes) for transporting the quantity of remelt zinc being priced from the point of shipment to the buyer's receiving point.

SEC. 3. *Miscellaneous.* All provisions of the General Ceiling Price Regulation which are not inconsistent with the provisions of this supplementary regulation, including, but not limited to, the enforcement and penalty provisions thereof, and the requirement of keeping on file for inspection a statement of ceiling prices, are incorporated herein by reference.

Effective date. This regulation becomes effective August 6, 1951.

MICHAEL V. DISALLE,
Director of Price Stabilization.

JULY 30, 1951.

[F. R. Doc. 51-8946; Filed, July 31, 1951; 4:21 p. m.]

Chapter VI—National Production Authority, Department of Commerce

[Amendment 2 to CMP Regulation 1]

CMP REG. 1—BASIC RULES OF THE CONTROLLED MATERIALS PLAN

This amendment is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950 as amended. In the formulation of this amendment, consultation with industry representatives has been rendered impracticable due to the need for immediate action and because the amendment affects many different industries.

This amendment affects CMP Regulation No. 1 as follows:

Paragraph (i) of section 20 is amended to read as follows:

(i) If a controlled materials producer is not required to or is unable to accept an authorized controlled material order for delivery in the month requested because of the provisions of this section, but has open space available in either of the two following months, he must accept and schedule the order for delivery as early as possible during the two following months and must promptly notify the customer of the proposed delivery date and tell him that the order has been accepted, subject to written confirmation within 7 days. If the customer does not have written confirmation of the new delivery date in the producer's hands within 7 days after the date on which the notice of tentative acceptance was sent, the producer must cancel the order. If the new delivery date falls within a later quarter than that shown on the original authorized controlled material order, the confirmation has no effect unless it is accompanied by the customer's certification that he has an allotment valid for the new quarter, in which case the customer must charge the order against that allotment. The confirmation and certification may be by letter or telegram.

(Sec. 704, Pub. Law 774, 81st Cong.; Pub. Law 96, 82d Cong. Interprets or applies sec. 101, Pub. Law 774, 81st Cong.; Pub. Law 96, 82d Cong.; sec. 101, E. O. 10161, Sept. 9, 1950, 15 F. R. 6105, 3 CFR, 1950 Supp.; sec. 2, E. O. 10200, Jan. 3, 1951, 16 F. R. 61)

This amendment shall take effect on August 1, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-9000; Filed, Aug. 1, 1951; 4:46 p. m.]

[NPA Order M-62, Amdt. 2 of August 1, 1951]

M-62—HORSEHIDES, HORSEHIDE PARTS, GOATSKINS, CABRETTAS, SHEEPSKINS, SHEARLINGS, AND KANGAROO SKINS

This amendment is found necessary and appropriate to promote the national defense, and is issued pursuant to the authority granted by section 101 of the

Defense Production Act of 1950 as amended. In the formulation of this amendment consultation with industry representatives, including trade association representatives, has been rendered impracticable due to the necessity for immediate action.

This amendment affects NPA Order M-62 (as amended June 29, 1951) by amending paragraph (a) of section 5.

NPA Order M-62 (as amended June 29, 1951) is hereby further amended as follows:

In the first sentence of paragraph (a) of section 5, the date "July 31, 1951" is changed to "September 30, 1951" and the percentage "300" is changed to "600."

This amendment shall take effect on August 1, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-9013; Filed, Aug. 1, 1951; 5:02 p. m.]

Chapter XVII—Housing and Home Finance Agency

[CR 3]

CR 3—RELAXATION OF RESIDENTIAL CREDIT CONTROLS: REGULATION GOVERNING PROCESSING AND APPROVAL OF EXCEPTIONS AND TERMS FOR CRITICAL DEFENSE HOUSING AREAS

The following amended regulation (HHFA Regulation CR 3, originally issued at 16 F. R. 3835, May 2, 1951) is issued pursuant to sections 601 through 605 and section 704 of Pub. Law 774, 81st Cong. (64 Stat. 813, 814, 815, 816), as amended, sections 501, 502, and 902 of Executive Order 10161, September 9, 1950 (15 F. R. 6106), and the approval and authorization by the Board of Governors of the Federal Reserve System of HHFA CR 1:

GENERAL

Sec.
1. Statement of purpose.
2. What this regulation does.
3. Geographical areas affected.
4. Type of housing eligible.
5. Programming by HHFA.
6. Beginning of construction; time limit.
7. Definitions.

HOUSING TO BE HELD FOR RENT

8. Who may apply for exception from credit restrictions.
9. Where and how builders should apply.
10. Approval of applications.
11. Rules and conditions applicable.
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SALES HOUSING AND OTHER HOUSING TO BE BUILT FOR OWNER-OCCUPANCY

13. Who may apply for exception from credit restrictions.
14. Where and how applications should be made.
15. Approval of applications.
16. Rules and conditions applicable.
17. Eligibility for purchase.

SPECIAL CREDIT EXCEPTIONS FOR PURCHASERS OF OTHER HOUSING

18. Approval of special credit exceptions.
19. Conditions and requirements.

AUTHORITY: Sections 1 to 19 issued under sec. 704, Pub. Law 774, 81st Cong., as amended. Interpret or apply Title VI, Pub. Law 774, 81st Cong., as amended, secs. 501, 502, 902; E. O. 10161, Sept. 9, 1950, 15 F. R. 6105; 3 CFR, 1950 Supp.

GENERAL

SECTION 1. *Statement of purpose.* In order to reduce serious inflationary pressures and to limit the volume of new residential construction to a level which can be maintained with the materials and labor available in the light of national defense requirements, restrictions on residential real estate credit (applicable where construction was started after noon of August 3, 1950) have been imposed, with the concurrence of the Housing and Home Finance Administrator, by Regulation X (Chapter XV of this title) issued by the Board of Governors of the Federal Reserve System (hereinafter called the "Board"). Related credit restrictions (applicable to both new and old residential property) are contained in regulations of the Federal Housing Commissioner and the Administrator of Veterans' Affairs. Actions restricting residential credit were taken under the authority of Title VI of the Defense Production Act of 1950 and amendments thereto, approved September 8, 1950, and of Executive Order 10161, issued September 9, 1950. In order to assist, to the maximum possible extent under existing legislation, the provision of housing needed for in-migrant defense workers or military personnel and their families where the failure to provide such housing would impede national defense activities, residential credit restrictions are relaxed or modified in critical defense housing areas designated by the Housing and Home Finance Administrator. Residential credit controls in such areas continue to be administered by the Board with respect to real estate construction credit which is subject to said Regulation X and by the Federal Housing Administration and the Veterans' Administration, respectively, with respect to residential real estate credit assisted under the programs of those two agencies. Accordingly, the schedules showing relaxed or modified credit terms made available in critical defense housing areas are announced by those agencies for their respective spheres of administrative responsibility.

It is the purpose of this Regulation CR 3, issued by the Housing and Home Finance Administrator, to prescribe uniform conditions and procedures under which such relaxed credit terms are made available in the designated critical defense housing areas in order to assure that the housing financed under the relaxed credit terms announced by the Board, the Federal Housing Administration and the Veterans' Administration will meet the needs of the in-migrant defense workers or military personnel and their families and in order to avoid contributing unduly to inflationary pressures, particularly insofar as they may affect the price or rental of new or existing houses or of building materials.

This regulation does not supersede or in any way modify HHFA Regulation CR 2, which concerns relaxed credit terms for areas affected by the Savannah River, Paducah (Kentucky), and Idaho Reactor Testing Station installations of the Atomic Energy Commission.

SEC. 2. *What this regulation does.* This regulation defines and lists critical defense housing areas and prescribes, among other things, who may apply for exceptions from residential credit restrictions in such areas; the type of housing eligible; where and how to apply; the basis on which applications will be approved; the rules which applicants and their successors in interest must abide by with respect to holding and offering certain housing for rent or sale to persons engaged in national defense activities and with respect to rents or sales prices which may be charged; and the manner in which eligibility will be determined for the occupancy or purchase of housing for which credit restrictions have been relaxed.

SEC. 3. *Geographical areas affected.* The special exceptions from residential credit restrictions which are authorized under this regulation will be applicable only to credit with respect to residential property located in "critical defense housing areas" as that term is defined in section 7 of this regulation. A critical defense housing area will be designated as such by the Housing and Home Finance Administrator only where such area has previously been designated as a "critical defense area" by the Defense Production Administrator. Among the criteria applied by the Defense Production Administrator in designating critical defense areas is the requirement that there be a serious shortage of housing for defense workers or military personnel required to be brought into such areas to carry out essential national defense activities.

SEC. 4. *Type of housing eligible.* The special exceptions from residential credit restrictions which are authorized under this regulation for critical defense housing areas will be applicable only to credit with respect to family dwellings which are suitable and intended for year round occupancy. Only single-family dwellings may be financed pursuant to the exceptions for sales housing and other housing to be built for owner-occupancy referred to in sections 13 through 17 of this regulation. Housing to be held for rent and to be financed pursuant to the exceptions governing rental housing set out in sections 8 through 12 of this regulation may be of any type which meets the requirements of the first sentence of this section. Thus, it may consist of a single-family home or single-family homes (whether detached, semi-detached, or row houses), two- to four-family structures, or other multi-family structures.

SEC. 5. *Programming by HHFA.* Relaxations of residential real estate credit restrictions will be programmed for each critical defense housing area by the Housing and Home Finance Agency on the basis of housing market field surveys, and exceptions from credit restrictions will be approved in accordance with schedules of housing needed from time to time to serve in-migrant defense workers or military personnel employed or stationed at defense plants or installations

in the area. Detailed program schedules will be announced for each critical defense housing area. Such schedules will relate to the general location of the housing within such critical defense housing area, the number and types of rental, sales or other units required, the size (by number of bedrooms) of such units, the levels of rentals or sales prices which must be achieved if the housing is to meet the needs of the persons for whom it is intended and similar factors. Exceptions from credit restrictions will be approved pursuant to the detailed procedures, standards, and conditions set out below.

SEC. 6. *Beginning of construction; time limit.* When an application for an exception from credit restrictions is approved under sections 8 through 12 or sections 13 through 17 of this regulation, construction of the housing described in the application should be begun not later than sixty calendar days after the date of the approval, and should be continued with reasonable diligence thereafter. This approval automatically expires unless construction is begun either (a) within such sixty-day period or (b) within any extension of that period which shall have been approved by the local office of the Federal Housing Administration, and is continued with reasonable diligence. Applicants are required to furnish, with respect to units for which an application is approved under this regulation, such information concerning the beginning, progress, or completion of construction as may be requested by the Government.

SEC. 7. *Definitions.* As used in this regulation, the following words, terms, and phrases shall have the meaning set out in this section:

(a) *Beginning of construction.* For the purposes of this regulation, construction shall be deemed to be begun when any essential materials which are to be an integral part of the structure have been incorporated into the site in a permanent form (for example, when footings or other foundations have been poured or placed).

(b) *Completion of construction.* For the purposes of this regulation a dwelling unit shall be deemed to be completed when, in conformity with general practice in the community, it is ready for occupancy.

(c) *Family dwelling.* A "family dwelling" means a house or apartment designed for residential occupancy by two or more persons and which contains kitchen facilities or space designed for kitchen facilities. It does not include hotels, motels, rooming houses, club houses, fraternity or sorority houses, dormitories, or any other structure designed or used either for transient accommodations or for occupancy by single persons or by non-family groups.

(d) *Critical defense housing area.* A "critical defense housing area" (for purposes of this regulation) means an area designated as such by the Housing and Home Finance Administrator in the Appendix to this regulation. Unless a different standard is specified in the Appendix with respect to a particular area listed, each area named in the Appendix shall be deemed to include surrounding areas within a maximum practicable commuting distance of a defense plant or installation listed in a "defense activity list" for the area. (This definition does not determine where housing may be located within a critical defense housing area for which exceptions from credit restrictions are issued. The general location of such housing is determined by program schedules announced in accordance with section 5.)

(e) *Defense activity list.* The "defense activity list" means the list of defense plants or installations for each critical defense housing area on file in the FHA office for the district in which the area is located.

(f) *Eligible defense worker.* An "eligible defense worker" means a civilian or a member of the armed forces employed or stationed at a defense plant or installation listed on the defense activity list for the particular critical defense housing area who is an in-migrant as defined herein and who requires and is without adequate family housing. However, a member of the armed forces otherwise eligible is an eligible defense worker notwithstanding the date when he brought or moved his family from beyond maximum practicable commuting distance.

(g) *In-migrant.* An "in-migrant" is a person (1) whose residence is beyond maximum practicable commuting distance from his place of work or military station or (2) who has since December 19, 1950, (or such other date as may be announced for the critical defense housing area) brought or moved his family from beyond the maximum practicable commuting distance from his place of work.

(h) *Maximum practicable commuting distance.* "Maximum practicable commuting distance" means a distance within which it is possible to commute daily to the place of employment by established common carrier or by private transportation at a cost per person of not more than $1.00 per round trip and with normal traveling time of not more than three hours per round trip, unless another cost or time shall have been announced for the critical defense housing area.

(i) *Sales price.* "Sales price" means the total consideration paid (including any charge made a condition to the sale) by the buyer for the dwelling accommodations with accompanying land and improvements. The only items which are excluded are those incidental charges, such as closing costs and brokerage fees or commissions or charges, which buyers of such dwelling accommodations customarily assume in the community where such accommodations are located, and which actually have been incurred for services rendered at the buyer's or seller's request in connection with the sale.

(j) *Public offer.* To "publicly offer" dwellings for rental or sale means that the owner will (1) for the period of offer required by this regulation take such affirmative steps as are customary in the community for making a public offering of family dwellings which will give reasonable notice to eligible defense workers, including members of the armed forces, that such dwellings are available for rental or sale, and (2) during construction and until the dwelling units are initially occupied or sold (or, where 4 or more units are involved, until at least 75 percent of the units are initially occupied or sold), maintain in a conspicuous location at the site a sign not less than 2½ feet by 4 feet specifying in words legible at 100 feet or more distance, the rents or range of rents, or the sales price or range or sales prices, as the case may be, and containing the following language:

DEFENSE HOUSING

Excepted from Credit Restrictions

Serial No. ------

HOUSING TO BE HELD FOR RENT

SEC. 8. *Who may apply for exception from credit restrictions.* With respect to housing programmed by the Housing and Home Finance Administrator for rental occupancy, application for a special defense exception from residential credit restrictions may be made only by a person (including a corporation, partnership, trust, or other legal entity) who is the owner of, or otherwise has effective control over, the land on which there is proposed to be erected a new family dwelling or dwellings which will be held for rental to eligible occupants as defined below. Effective control over the land, for the purposes of this section, includes control through ownership, a firm contract to purchase, an option to purchase which may be exercised at the will of the applicant, or a long-term lease for a term of not less than 50 years.

SEC. 9. *Where and how builders should apply.* Application for an exception from credit restrictions with respect to housing to be held for rental should be made to the appropriate local office of the Federal Housing Administration on HHFA Form No. H–1052. (Local offices of the Federal Housing Administration, which is a constituent agency of the Housing and Home Finance Agency, will receive and process such applications on behalf of the Housing and Home Finance Administrator without regard to whether or not the housing in question will be financed with the aid of FHA mortgage insurance.) An original and three signed copies of the application form must be submitted for each application. Each application must contain a statement that the applicant has a commitment or other assurance from a lending institution or other lender that such lender will, if the application is approved, provide the financing for the residential property, including the proposed improvements, described in the application. If the application is approved, two copies of the application form will be returned to the applicant endorsed to indicate that an exception from the credit restrictions has been approved. One of these copies must be submitted to the lending institution or other lender making the loan. Such lender need not be the lending institution or proposed lender referred to in the application. The applicant will also be notified if the application is rejected.

SEC. 10. *Approval of application.* Applications made under sections 8 through 12 may be approved in accordance with this regulation and program schedules and procedures adopted from time to time by the Housing and Home Finance Administrator. Unless otherwise specifically approved in writing by the local office of the FHA, exceptions from credit restrictions in accordance with an approved application under this regulation shall apply only to credit extended to the applicant named in such approved application.

SEC. 11. *Rules and conditions applicable.* (a) In the event that an application for an exception from credit restrictions is approved pursuant to sections 8 through 12, the applicant is hereby required to notify the appropriate local office of the Federal Housing Administration in writing when the construction of the dwelling units described in the application is begun and when such dwelling units are completed and, for a period of five years after the completion of the housing, to:

(1) Publicly offer any such dwelling unit for rent, for a period of at least thirty calendar days after the dwelling unit described in the application has been completed and for a period of at least thirty calendar days after such unit subsequently becomes vacant, to eligible defense workers unless the unit is sooner rented to such a worker;

(2) Require, upon the renting of any such dwelling unit to an eligible defense worker, that such worker fill out in duplicate and submit to the applicant an occupancy eligibility certificate on HHFA Form No. H–1054 (which shall be further executed by the applicant, as indicated therein, who shall forward one copy to the local office of FHA and retain one copy);

(3) Fill out in duplicate a landlord's certificate on HHFA Form No. H–1056 in case such dwelling unit has been publicly offered in good faith for rent to eligible defense workers, as required by subparagraph (1) of this paragraph, but subsequently rented to a person other than an eligible defense worker (one copy of such certificate shall be forwarded to the local office of FHA and one copy shall be retained by the applicant or any subsequent owner making such certificate);

(4) Charge not more than the rent or rents specified in the application or not more than such higher rents as the Housing and Home Finance Administrator or his designee shall have approved on the basis of hardship to the applicant or subsequent owner;

(5) Hold the dwelling unit or units for rent unless (i) the property is being sold to a purchaser for investment purposes rather than for his own occupancy, or (ii) a period of at least sixty calendar days has elapsed after the dwelling unit or units described in the application have been completed or after the unit has subsequently become vacant, and the public offer of such unit for rent at the approved rental during said sixty days has not produced a tenant;

(6) Comply with any agreements or conditions made a part of the application, HHFA Form No. H–1052, as approved; and

(7) Require that the purchaser, if the property is sold pursuant to subdivision (i) of subparagraph (5) of this paragraph, agree in writing to abide by all the provisions and conditions set forth in this regulation, including this paragraph, which shall be applicable to all successive sales pursuant to said subdivision (i) of subparagraph (5) of this paragraph made within the five year period referred to above, by the first and all successive purchasers for investment purposes.

(b) No purchaser of property for investment purposes (pursuant to paragraph (a) (5) (i) of this section) shall occupy a dwelling unit in such property unless it contains two or more family dwelling units and such purchaser is himself eligible for occupancy of a dwelling pursuant to section 12 of this regulation or unless such occupancy is pursuant to paragraph (c) of this section.

(c) Notwithstanding any provision of this section, if a parcel of real property contains five or more family dwelling units required to be held for rent under sections 8 through 12 of this regulation, the owner of said parcel, or a person actually employed as a resident manager or janitor of said dwelling units, may occupy one of such units. Two such units may be occupied by such owners, resident managers, or janitors if the property required to be held for rent pursuant to said sections contains not less than 20 family dwelling units, and an additional unit may be so occupied for every additional 30 family dwelling units above 20.

(d) Sales in the course of judicial or statutory proceedings in connection with foreclosures are not subject to the provisions of this section.

(e) Written notifications required by this section to be given to the Federal Housing Administration shall be deemed to be given as of the date they are received by the FHA or, if mailed, as of the date they are postmarked.

SEC. 12. *Eligibility for tenancy.* Except as otherwise provided in section 11, above, for five years after the completion of a dwelling unit which is required to be held for rent under sections 8 through 12 of this regulation, no person other than an "eligible defense worker", as defined in paragraph (f) of section 7 of this regulation, or his family shall be eligible for tenancy or occupancy of such dwelling unit.

SALES HOUSING AND OTHER HOUSING TO BE BUILT FOR OWNER-OCCUPANCY

SEC. 13. *Who may apply for exception from credit restrictions.* With respect to housing in a critical defense housing area which may be programmed by the Housing and Home Finance Administrator for sale to, or construction by, prospective owner-occupants, application for a special defense exception from residential credit restrictions may be made only by (a) an "eligible defense worker" (as defined in paragraph (f) of section 7 of this regulation) who is the owner of, or otherwise has effective control over, the land on which he proposes to erect a new family dwelling for his own occupancy or (b) a person (including a corporation, partnership, trust, or other legal entity) who is the owner of, or otherwise has effective control over, the land on which he proposes to erect a new family dwelling or dwellings for sale to eligible defense workers. Effective control over the land, for the purposes of this section, includes control through ownership, a firm contract to purchase, an option to purchase which may be exercised at the will of the applicant, or a long-term lease for a term of not less than 50 years.

SEC. 14. *Where and how applications should be made.* Application for an exception from credit restrictions by a builder with respect to a dwelling or dwellings to be erected for sale to eligible defense workers should be made to the appropriate local office of the Federal Housing Administration on HHFA Form No. H–1053. Application for an exception from credit restrictions by an "eligible defense worker" with respect to a single-family dwelling to be erected and occupied by the applicant should be made to the appropriate local office of the Federal Housing Administration on HHFA Form No. H–1053A. Procedures for the submission, processing and subsequent disposition of such applications will be the same as those set forth in section 9 of this regulation for applications for exceptions from credit restrictions with respect to housing to be held for rental.

SEC. 15. *Approval of applications.* Applications made under sections 13 through 17 may be approved in accordance with this regulation and program schedules and procedures adopted from time to time by the Housing and Home Finance Administrator. Unless otherwise specifically approved in writing by the local office of the FHA, exceptions from credit restrictions in accordance with an approved application under this regulation shall apply only to credit extended to the applicant named in such approved application.

SEC. 16. *Rules and conditions applicable.* (a) In any case where an application for an exception from credit restrictions is approved pursuant to sections 13 through 17, with respect to the erection of a dwelling or dwellings for sale, the applicant is hereby required to notify the appropriate local office of the Federal Housing Administration in writing when the construction of the dwellings described in the application is begun and when such dwellings are completed and, for a period of five years after the completion of the dwelling or dwellings, to:

(1) Publicly offer each such dwelling for sale for a period of at least sixty calendar days after the dwelling described in the application has been completed, to eligible defense workers unless the dwelling is sooner purchased by such a worker;

(2) Require, upon the sale of any such dwelling to an eligible defense worker, that such worker fill out in duplicate and submit to the applicant an occupancy eligibility certificate on HHFA

Form No. H–1054 (which shall be further executed by the applicant, as indicated therein, who shall forward one copy to the local office of FHA and retain one copy);

(3) Fill out in duplicate a seller's certificate on HHFA Form No. H–1057 in case any such dwelling has been publicly offered in good faith for sale to eligible defense workers, as required by subparagraph (1) of this paragraph, but subsequently sold on excepted credit terms to a person other than an eligible defense worker (one copy of such certificate shall be forwarded to the local office of FHA and one copy retained by the applicant or any subsequent owner making such a certificate).

(4) Charge not more than the sales price or prices specified in the application for such dwelling or dwellings or such higher price or prices as the Housing and Home Finance Administrator or his designee shall have approved on the basis of hardship to the applicant or subsequent owner.

(5) Comply with any agreements or conditions made a part of the application, HHFA Form No. H–1053, as approved; and

(6) Require that each purchaser agree in writing in the event of subsequent sale by him to abide by all the provisions and conditions set forth in this regulation, including this subparagraph (6), which shall be applicable to all successive sales of said dwelling or dwellings within the five year period referred to above: *Provided*, That for the purposes of this subparagraph (6) references elsewhere in this regulation to "an applicant" shall be deemed to include subsequent owners and reference to a sixty day period of public offer after completion of the dwelling shall be deemed to include any subsequent sixty day period of public offer.

(b) In any case where an application for an exception from credit restrictions is approved pursuant to sections 13 through 17 with respect to a single-family dwelling to be erected and occupied by an "eligible defense worker", the applicant is hereby required to notify the appropriate local office of the Federal Housing Administration in writing when the construction of the dwelling is begun and also when it is completed and, for a period of five years after the completion of the dwelling, to comply with any agreements or conditions made a part of the application, HHFA Form No. H–1053A, as approved. If the "eligible defense worker" or his family does not reside in the dwelling for a period of at least three months after the date of its completion, and he proposes to sell such dwelling within a period of five years after the completion of the dwelling, he is hereby further required to give advance notification in writing to such local office of the FHA that he proposes to sell such dwelling and thereafter to comply with subparagraphs (1), (2), (3), and (6) of paragraph (a) of this section.

(c) Sales in the course of judicial or statutory proceedings in connection with foreclosures are not subject to the provisions of this section.

(d) Written notifications required by this section to be given to the FHA shall be deemed to be given as of the date they are received by the Federal Housing Administration or, if mailed, as of the date they are postmarked.

SEC. 17. *Eligibility for purchase.* Except as otherwise provided in section 16, above, for five years after the completion of a dwelling for which an exception from credit restrictions has been issued under the provisions of sections 13 through 17 of this regulation no person except an "eligible defense worker" as defined in paragraph (f) of section 7 of this regulation shall be eligible for purchase of such dwellings.

SPECIAL CREDIT EXCEPTIONS FOR PURCHASERS OF OTHER HOUSING

SEC. 18. *Approval of special credit exceptions.* In addition to the exceptions from credit restrictions approved on the application of builders in accordance with the preceding sections of this regulation, the Housing and Home Finance Agency may, under unusual circumstances in some areas, program or approve exceptions from credit restrictions for the purchase, by eligible defense workers, of housing which shall have been built in a critical defense housing area without such approved applications by builders. This will be limited to cases where the Housing and Home Finance Agency determines that the housing needs of such defense workers cannot otherwise be met and that such exceptions will not result in undue inflationary pressures upon the prices of existing housing in the area or in other housing programmed for the area under this regulation being made available to persons other than defense workers.

SEC. 19. *Conditions and requirements.* Any relaxation of credit restrictions under the special circumstances referred to in section 18 shall be approved in accordance with such procedures and subject to such conditions and requirements as shall be determined by the Housing and Home Finance Agency to be consistent with the provisions of this regulation and announced for the critical defense housing area, and compliance with conditions and requirements imposed pursuant to this section is hereby required.

The reporting requirements of this regulation have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

This regulation is effective as of the 3d day of August, 1951.

[SEAL] B. T. FITZPATRICK,
Acting Housing and Home Finance Administrator.

APPENDIX 1—CRITICAL DEFENSE HOUSING AREAS [1]

AUGUST 3, 1951.

Critical defense housing area and State:	*Date designated*
1. San Diego, Calif.	May 2, 1951
2. Corona, Calif.	May 8, 1951
3. Colorado Springs, Colo.	May 8, 1951
4. Star Lake, N. Y.	May 23, 1951
5. Fort Leonard Wood area, Mo.	May 23, 1951
6. Camp Cooke area, Calif.	June 8, 1951
7. Bremerton, Wash.	June 8, 1951
8. San Marcos, Tex.	June 8, 1951
9. Valdosta, Ga.	June 20, 1951
10. Tullahoma, Tenn.	June 20, 1951
11. Camp Pendleton area, Calif.	June 20, 1951
12. Solano County, Calif.	June 29, 1951
13. Quad Cities area,[2] Iowa-Ill.	June 29, 1951
14. Hanford AEC Operations area, Wash.	July 3, 1951
15. Barstow, Calif.	July 3, 1951
16. Camp Roberts area, Calif.	July 3, 1951
17. Brazoria County, Tex.	July 3, 1951
18. Tooele, Utah	July 3, 1951
19. Dana, Ind.	July 13, 1951
20. El Centro-Imperial area, Calif.	July 13, 1951
21. Borger, Tex.	July 13, 1951
22. Huntsville, Ala.	July 13, 1951
23. Mineral Wells, Tex.	July 17, 1951
24. Las Cruces, N. Mex.	July 17, 1951
25. Alamagordo, N. Mex.	July 17, 1951
26. Wichita, Kans.	July 25, 1951
27. Columbus, Ind.	July 25, 1951
28. Lone Star, Tex.	Aug. 3, 1951
29. Camp Lejeune-Jacksonville area, N. C.	Aug. 3, 1951
30. Killean-Fort Hood area, Tex.	Aug. 3, 1951
31. Dover, Del.	Aug. 3, 1951
32. Patuxent, Md.	Aug. 3, 1951

[1] These areas are in addition to three areas of Atomic Energy Commission installations in which exceptions from residential credit restrictions are issued pursuant to CR 2 of the Housing and Home Finance Agency.

[2] Area of Davenport, Iowa; and Moline, East Moline, and Rock Island, Illinois.

[F. R. Doc. 51–8985; Filed, Aug. 2, 1951; 8:52 a. m.]

TITLE 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

PART 21—PUBLIC LANDS; MILITARY AND NAVAL RESERVATIONS

NAVY HOSPITAL AREA, COCO SOLO, CANAL ZONE

CROSS REFERENCE: For addition to the tabulation in § 21.4, *see* Canal Zone Order 23, appendix to this chapter, *infra*.

Appendix—Canal Zone Orders

[Canal Zone Order 23]

NAVY HOSPITAL AREA, COCO SOLO, CANAL ZONE

ESTABLISHMENT OF NAVAL RESERVATION

MAY 18, 1951.

By virtue of the authority vested in the President of the United States by section 5 of title 2 of the Canal Zone Code, and delegated to me by Executive Order No. 9746 of July 1, 1946, and after consultation with the Secretary of the Navy, it is ordered as follows:

SECTION 1. *Setting apart of reservation; boundaries.* The following-described area of land in the Canal Zone is hereby reserved and set apart as, and assigned to the uses and purposes of, a naval reservation, which shall be known as Navy Hospital Area, Coco Solo, and which shall be under the control and jurisdiction of the Secretary of the Navy, subject to the provisions of section 2 of this order:

Beginning at monument N. H. 1, which is a 2 inch galvanized iron pipe, located on the northerly boundary of the Colon Corridor, the geographic position of which monument, referred to the Canal Zone triangulation system, is in latitude 9°21′ N., plus 720.3 feet, and in longitude 79°51′ W., plus 3813.9 feet from Greenwich.

Thence from said initial point, by metes and bounds:

S. 63°00′50″ W., 265.9 feet, along the northerly boundary of the Colon Corridor, through monument N. H. 2, which is a 2 inch galvanized iron pipe, to monument N. H. 3, which is a 2 inch galvanized iron pipe located on the P. C. of the northerly boundary of the Colon Corridor, the distances being 183.3 feet and 82.6 feet, successively, from beginning of course;

On a curve to the left, with radius of 5815.58 feet along the northerly boundary of the Colon Corridor through monuments N. H. 4, which is a 2 inch galvanized iron pipe, N. H. 5 and N. H. 6, which are scribed brass plugs in each side of concrete entrance road, to monument N. H. 7, which is a 2 inch galvanized iron pipe located at the P. T. of the northerly boundary of the Colon Corridor, the bearings and chord distances being S. 62°13′00″ W., 174.9 feet, S. 59°50′10″ W., 301.3 feet, S. 58°03′50″ W., 19.6 feet, S. 56°04′50″ W., 215.1 feet, successively, from beginning of curve;

S. 56°00′50″ W., 561.2 feet, along the northerly boundary of the Colon Corridor, through monuments N. H. 8 and N. H. 9, which are 2-inch galvanized iron pipes, to monument N. H. 9–1, which is a 2-inch galvanized iron pipe located on the top of right bank of the Rio Coco Solo, the distances being 114.4 feet, 340.8 feet, and 106.0 feet, successively, from beginning of course;

In a general northerly direction along the right bank of the Rio Coco Solo to monument N. H. 10 which is a 2-inch galvanized iron pipe;

N. 55°45′15″ E., 983.1 feet, through monuments N. H. 11 and N. H. 12, which are 2-inch galvanized iron pipes, to monument N. H. 13, which is a 2-inch galvanized iron pipe, the distances being 283.1 feet, 200.0 feet, and 500.0 feet, successively, from beginning of course;

S. 56°03′30″ E., 1047.0 feet, through monuments N. H. 14 and N. H. 15, which are 2-inch galvanized iron pipes, to monument N. H. 16, which is a 2-inch galvanized iron pipe, the distance being 389.4 feet, 448.1 feet, and 209.5 feet, successively, from beginning of course;

S. 16°58′20″ E., 477.5 feet, to monument N. H. 1, the point of beginning.

The direction of the lines refer to the true meridian. All geographic positions are referred to the Panama-Colon Datum of the Canal Zone triangulation system.

The survey was made by the Surveys Branch, Engineering Division, The Panama Canal, in July 1950.

The above described tract contains an area of 41 acres, more or less, and is as shown on Panama Canal Drawing L–6116–11 entitled "Boundary of U. S. Naval Hospital, Coco Solo, C. Z.", scale 1" to 200', dated July 20, 1950, on file in the Governor's Office, Balboa Heights, C. Z., and in the Office of the Commandant, 15th Naval District.

SEC. 2. *Conditions and limitations.* The reservation established by section 1 of this order shall be subject to the following conditions and limitations:

(a) The area comprising this reservation shall continue to be subject to the civil jurisdiction of the Canal Zone Government in conformity with the provisions of the Canal Zone Code as amended and supplemented.

(b) Personnel and equipment of The Panama Canal shall be permitted free access to the reservation to carry out necessary Panama Canal operations in connection with drainage, sanitation, surveys, etc., in the area or vicinity.

SEC. 3. This order supersedes Executive Order No. 8981 of December 17, 1941, which reserved and set apart as a naval reservation the Navy Hospital Area, Coco Solo, Canal Zone, the boundaries of which are newly defined and established by this order.

FRANK PACE, JR.,
Secretary of the Army.

[F. R. Doc. 51-8916; Filed, Aug. 2, 1951; 8:48 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 1—GENERAL PROVISIONS

INVENTIONS BY EMPLOYEES

A new centerhead and §§ 1.650 through 1.667 are added to read as follows:

INVENTIONS BY EMPLOYEES OF THE VETERANS' ADMINISTRATION

Sec.
1.650 Purpose.
1.651 Definitions.
1.652 Rights of employees.
1.653 Disposition of domestic rights in Government-owned domestic applications.
1.654 Procedure when commercial rights are not claimed by the inventor.
1.655 Responsibility for handling applications for patents.
1.656 Determination as to entitlement of inventor to commercial patent rights.
1.657 Certifications required from official superiors of inventor.
1.658 Determination as to respective rights of the Government and the inventors to the patent rights.
1.659 Procedure in cases where the inventor is entitled to retain the entire right and title to the invention.
1.660 Procedure in cases where the domestic patent rights are subject to assignment to the Government but the department or agency determines not to file a United States patent application.
1.661 Granting of patent without payment of fee.
1.662 Determination as to whether the invention is liable to be used in the public interest.
1.663 Foreign patent rights on inventions by employees.
1.664 Restrictions on filing applications for foreign patents.
1.665 Provisions for expeditious action on patents of peculiar importance to the public service.
1.666 Information as to inventions and patent applications to be kept confidential.
1.6667 Provisions of regulation made a condition of employment.

AUTHORITY: §§ 1.650 to 1.667 issued under sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016; 38 U. S. C. 11a, 426.

§ 1.650 *Purpose.* The purpose of the regulations concerning inventions by employees of the Veterans' Administration is to define the respective rights of the United States Government and of Veterans' Administration employees who make inventions and to prescribe the procedure to be followed in determining and protecting those rights in accordance with the provisions of Executive Order No. 10096, dated January 23, 1950; Administrative Order No. 5, issued by the Chairman of the Government Patents Board, dated April 26, 1951; Executive Order No. 9865, dated June 14, 1947; and Administrative Order No. 4, dated March 12, 1951.

§ 1.651 *Definitions.* The following terms as used in the regulations concerning inventions by employees of the Veterans' Administration are defined as follows:

(a) The term "invention" includes any art, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, except as hereinafter provided, which is or may be patentable under the patent laws of the United States.

(b) The term "employee" or "Government employee" means any officer or employee, civilian or military, of the Veterans' Administration. Part-time employees and part-time consultants are included, except when special circumstances in a specific case require the departure herefrom to meet the needs of the Veterans' Administration, such circumstances to be reported to and approved by the Chairman of the Government Patents Board.

(c) The term "Administrator" means the Administrator of Veterans Affairs.

(d) The term "Chairman" means the Chairman of the Government Patents Board.

(e) The term "non-fee act" refers to the act of March 3, 1883, as amended by the act of April 30, 1928 (35 U. S. C. 45).

§ 1.652 *Rights of employees.* The domestic and foreign patent rights in inventions made by employees of the Veterans' Administration will be determined in accordance with the provisions of Executive Order No. 10096, dated January 23, 1950, Administrative Order No. 5, issued by the Chairman of the Government Patents Board, dated April 26, 1951; Executive Order No. 9865, dated June 14, 1947; and Administrative Order No. 4 dated March 12, 1951, respectively, the pertinent provisions of which are as follows:

EXECUTIVE ORDER 10096

1. * * *

(a) The Government shall obtain the entire right, title, and interest in and to all inventions made by any Government employee (1) during working hours, or (2) with a contribution by the Government of facilities, equipment, materials, funds, or information, or of time or services of other Government employees on official duty, or (3) which bear a direct relation to or are made in consequence of the official duties of the inventor.

(b) In any case where the contribution of the Government, as measured by any one or more of the criteria set forth in paragraph (a) last above, to the invention is insufficient equitably to justify a requirement of assignment to the Government of the entire right, title and interest to such invention, or in any case where the Government has insufficient interest in an invention to ob-

tain entire right, title and interest therein (although the Government could obtain same under paragraph (a), above), the Government agency concerned, subject to the approval of the Chairman of the Government Patents Board (provided for in paragraph 3 of this order and hereinafter referred to as the Chairman), shall leave title to such invention in the employee, subject, however, to the reservation to the Government of a non-exclusive, irrevocable, royalty-free license in the invention with power to grant licenses for all governmental purposes, such reservation, in the terms thereof, to appear, where practicable, in any patent, domestic or foreign, which may issue on such invention.

(c) In applying the provisions of paragraphs (a) and (b), above, to the facts and circumstances relating to the making of any particular invention, it shall be presumed that an invention made by an employee who is employed or assigned (i) to invent or improve or perfect any art, machine, manufacture, or composition of matter, (ii) to conduct or perform research, development work, or both, (iii) to supervise, direct, coordinate, or review Government financed or conducted research, development work, or both, or (iv) to act in a liaison capacity among governmental or nongovernmental agencies or individuals engaged in such work, or made by an employee included within any other category of employees specified by regulations issued pursuant to section 4 (b) hereof, falls within the provisions of paragraph (a), above, and it shall be presumed that any invention made by any other employee falls within the provisions of paragraph (b), above. Either presumption may be rebutted by the facts or circumstances attendant upon the conditions under which any particular invention is made and, notwithstanding the foregoing, shall not preclude a determination that the invention falls within the provisions of paragraph (d) next below.

(d) In any case wherein the Government neither (1) pursuant to the provisions of paragraph (a) above, obtains entire right, title and interest in and to an invention nor (2) pursuant to the provisions of paragraph (b) above, reserves a nonexclusive, irrevocable, royalty-free license in the invention with power to grant licenses for all governmental purposes, the Government shall leave the entire right, title and interest in and to the invention in the Government employee, subject to law. * * *

EXECUTIVE ORDER 9865

1. All Government departments and agencies shall, whenever practicable, acquire the right to file foreign patent applications on inventions resulting from research conducted or financed by the Government. * * *

§ 1.653 *Disposition of domestic rights in Government-owned domestic applications.* The domestic patent rights in any invention made by an employee of the Veterans' Administration which is subject to ownership by the Government, under the provisions of paragraph (1) (a) of Executive Order No. 10096, quoted in § 1.652, on which a United States patent application is filed, shall be dedicated to the public or, in the event that it is desirable to retain control of the invention in the United States, shall be assigned to the United States.

§ 1.654 *Procedure when commercial rights are not claimed by the inventor—*(a) *Information to be submitted by inventor.* If a United States patent application is to be filed on an invention made by an employee of the Veterans' Administration and the domestic patent rights in the invention are to be dedicated to the public or assigned to the United States without contest, the inventor will submit to his immediate superior a statement to that effect, together with information including a disclosure of the invention sufficient to permit of the preparation of a patent application, including an abstract of the invention, a brief statement of the most pertinent prior art known to the inventor and setting forth as clearly as possible the respects in which the invention differs from the prior art. There should be stated also the full name, residence, and post office address of the inventor; whether the inventor was a full-time or part-time employee, part-time consultant, etc., at the time the invention was made; whether there was any agreement or understanding between him and the Government to the effect that the invention could be manufactured and used by or for the Government for governmental purposes without the payment of royalties; and information as to whether the invention has been disclosed in a printed publication and, if so, the citation to the publication.

(b) *Submission by inventor's superior.* The inventor's immediate superior shall promptly submit the information, through channels, to the solicitor together with recommendations as to the action to be taken, the reasons why it is believed that patent protection should be obtained, whether the domestic patent rights should be dedicated to the public or assigned to the United States, whether the invention is used or is liable to be used in the public interest, and any such additional information as may be necessary.

§ 1.655 *Responsibility for handling applications for patents.* Applications for patents will be prepared in the office of the Solicitor, which office will handle all correspondence and pass upon all applications for patents, subject to review by the Chairman of the Government Patents Board. In the event of a disclosure of the invention in a printed publication after the matter has been submitted to the solicitor but before the application has been filed in the Patent Office, the office of the solicitor should be advised of the disclosure and of the citation to the publication in which the disclosure was made and, if available, a copy of the publication in which the disclosure was made should be furnished.

§ 1.655 *Determination as to entitlement of inventor to commercial patent rights.* In any case of an invention made by an employee of the Veterans' Administration on which patent protection with commercial rights therein is sought by the inventor, there shall be submitted to the solicitor by the inventor through channels, after obtaining the requisite clearance from his official superiors, the same information as required in the case of inventions to which the commercial rights are not claimed by the inventor (as set forth in § 1.654), plus the following additional information:

(a) A detailed statement of the circumstances under which the invention was made (conceived and constructed or carried out and tested) including information as to the extent it was made during working hours and the extent to which use was made of Government facilities, equipment, materials, funds, or information, or time or services of other Government employees on official duty, and such information as to his own contribution to these items as may be pertinent.

(b) A statement of his duties and their relationship, if any, to the invention, including information sufficient to permit a determination as to whether his duties were such as to raise the presumption that the invention was made under conditions which fall within the provisions of paragraph 1 (c) of Executive Order No. 10096, quoted in § 1.652.

(c) A statement explaining why he believes that he is entitled to the commercial rights in the invention.

(d) A statement as to whether he desires that the patent be obtained under the provisions of the non-fee act and, if so, why he believes that the invention is used or is liable to be used in the public interest.

(e) Such other information as the solicitor may determine to be necessary.

§ 1.657 *Certifications required from official superiors of inventor.* The manager of the station at which the inventor is employed, or the assistant administrator in central office under whose jurisdiction the inventor is employed, will promptly submit to the solicitor the information given by the inventor concerning the invention, together with a statement as to whether the allegations made by the inventor as to the circumstances under which the invention was made, and the description of his duties and the statement as to the relationship between the inventor's duties and the invention are correct, and any additional information as to the circumstances under which the invention was conceived and developed that will be helpful in determining whether the inventor is entitled to retain the commercial rights in the invention, together with a recommendation as to the action which it is believed should be taken.

§ 1.658 *Determination as to the respective rights of the Government and the inventors to the patent rights.* The Solicitor shall determine, subject to review by the Chairman of the Government Patents Board, and subject to appeal to the Chairman in accordance with the provisions of section 7, Administrative Order No. 5, issued by the Chairman of the Government Patents Board, dated April 26, 1951, whether, under the provisions of Executive Order No. 10096 and the regulations concerning inventions by employees of the Veterans' Administration, the inventor is entitled to retain the commercial rights to the invention, and notify the inventor through channels, after review by the Chairman of the Government Patents Board, of the determination. The original administrative determination shall be reconsidered by the solicitor upon receipt of a request for reconsideration made by

either the Administrator or the inventor within 30 days after receipt of the notice of the determination.

§ 1.659 *Procedure in cases where the inventor is entitled to retain the entire right and title to the invention.* When it has been determined that an employee-inventor is entitled to retain the entire right and title to an invention, he may file an application for a patent with the Patent Office direct, if he so elects, or he may request that the patent be obtained without the payment of a fee under the provisions of 35 U. S. C. 45, by agreeing that the invention may be manufactured and used by or for the Government for governmental purposes without the payment of a royalty.

§ 1.660 *Procedure in cases where the domestic patent rights are subject to assignment to the Government but the department or agency determines not to file a United States patent application.* If the domestic patent rights in an invention, other than a plant, are assignable to the Government, and it has been determined that a patent application should not be filed, information concerning the invention will be submitted to the solicitor through channels. The submission should include the same information as is required in cases where the inventor does not claim the commercial rights and a United States patent application is to be filed. (See § 1.654.)

§ 1.661 *Granting of patent without payment of fee.* In any case where it has been determined that the inventor is entitled to the commercial patent rights, there shall be submitted to the solicitor by the inventor through channels, after obtaining clearance from his official superior, the following:

(a) A statement by the inventor as to whether he desires that the patent be granted without the payment of a fee under the following provisions of the act of March 3, 1883, as amended by the act of April 30, 1928 (35 U. S. C. 45):

> The Commissioner of Patents is authorized to grant, subject to existing law, to any officer, enlisted man, or employee of the Government, except officers and employees of the Patent Office, a patent for any invention of the classes mentioned in section 31 of this title, without the payment of any fee when the head of the department or independent bureau certifies such invention is used or liable to be used in the public interest: *Provided*, That the applicant in his application shall state that the invention described therein, if patented, may be manufactured and used by or for the Government for governmental purposes without the payment to him of any royalty thereon, which stipulation shall be included in the patent.

(b) A statement by the inventor as to why he believes the invention is liable to be used in the public interest.

(c) Such additional information as the solicitor may determine to be necessary.

§ 1.662 *Determination as to whether the invention is liable to be used in the public interest.* The entitlement of an inventor to have a patent granted without the payment of a fee under the provisions of 35 U. S. C. 45, is dependent upon a certification by the head of the department or independent bureau to the effect that the invention is used or liable to be used in the public interest. The solicitor will assemble the evidence bearing upon this question and will prepare for the signature of the Administrator or Deputy Administrator a finding as to whether the invention is used or liable to be used in the public interest, and, in cases where the requisite finding is made, upon receipt of notice of approval by the Chairman of the Government Patents Board, will take the action necessary to have the patentability of the invention determined and the patent granted.

§ 1.663 *Foreign patent rights on inventions by employees.* In all cases where the United States has an option to acquire the foreign patent rights in the invention, the office of technical services, Department of Commerce, shall be advised and shall be furnished by the solicitor the information specified below through the use of Foreign Patent Protection Reporting Form TS12, concerning each such invention:

(a) The recommendation of the reporting agency as to whether the invention should receive patent protection abroad by the United States and, if so, in what foreign jurisdictions such patent protection should be sought, together with the reasons for the recommendation to file or not to file for foreign patent protection, or to cause disclosure of the invention in accordance with section 8 of Administrative Order No. 4, issued by the Chairman of the United States Government Patents Board, and an indication of the immediate or future industrial, commercial, or other value of the invention, including its value to public health.

(b) The other information specified in Form TS12.

§ 1.664 *Restrictions on filing applications for foreign patents.* No employee of the Veterans' Administration shall file or cause to be filed any application for a foreign patent on any invention (except on behalf of and at the direction of the Government) or take any action to preclude the filing of an application on behalf of the Government, without having obtained permission to do so from the Department of Commerce, except as authorized by the following provisions of section 9 of Administrative Order No. 4:

> When the foreign patent rights in an invention are not assigned to the Government but the Government may, at its option or on request, acquire such rights and the Secretary of Commerce, as represented by the Office of Technical Services, Department of Commerce, fails to cause an application to be filed in any particular foreign country on behalf of the Government, or determines not to seek a foreign patent in such country, within six months of the filing of an application for United States patent on the invention, such failure to cause an application to be filed, or determination not to seek a foreign patent, shall constitute a decision by the Government not to acquire the patent rights in such foreign country, subject to the provisions of paragraph 6 of Executive Order 9865. After the decision by the Government the inventor may apply for patent in such country, subject to the reservation to the Government of a non-exclusive, irrevocable, royalty-free license in the invention for all governmental purposes.

§ 1.665 *Provisions for expeditious action on patents of peculiar importance to the public service.* (a) The rules of practice of the United States Patent Office provide for expediting consideration of applications for patents that are of peculiar importance to the public service, upon the request of department heads. In such instances as the circumstances justify the making of a request for expedited consideration, the request for such action will be prepared for the Administrator's signature by the solicitor.

(b) The solicitor is hereby authorized to act for the Administrator of Veterans Affairs and take all action necessary in connection with employee inventions and patents, for the Administrator, including patent applications and certifications and correspondence in connection therewith, except such as may be required by law to be taken by the Administrator or the Deputy Administrator personally.

(c) Submissions involving inventions that may be patentable should be made as promptly as possible in order to avoid delay which might jeopardize title to the invention or otherwise impair the rights of the inventor or the Government. In order to obtain the advantages which result from an early filing date, final determination as to the entitlement of the inventor to retain commercial rights may be deferred until after the application for patent has been filed, if necessary.

§ 1.666 *Information as to inventions and patent applications to be kept confidential.* All information pertaining to inventions and pending patent applications is strictly confidential and employees having access to such information are forbidden to disclose or reveal the same otherwise than as required by the performance of their official duties.

§ 1.667 *Provisions of Regulation made a condition of employment.* The provisions of the regulations concerning inventions by employees of the Veterans' Administration shall be a condition of employment of all employees of the Veterans' Administration.

This regulation effective August 3, 1951.

[SEAL] O. W. CLARK,
Deputy Administrator.

[F. R. Doc. 51-8827; Filed, Aug. 2, 1951; 8:45 a. m.]

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1796]

PART 196—PHOSPHATE LEASES AND USE PERMITS

LIMITATION ON OVERRIDING ROYALTIES

Part 196 is amended by adding thereto a new section as follows:

§ 196.20 *Limitation on overriding royalties.* An overriding royalty interest shall not be created by assignment or otherwise exceeding one per cent of the

gross value of the output at point of shipment to market or an overriding royalty interest which when added to any other overriding royalty interest exceeds that percentage, excepting that where an interest in the leasehold, or operating agreement is assigned, the assignor may retain an overriding royalty interest in excess of the above limitation if he shows to the satisfaction of the Director, Bureau of Land Management, that he has made substantial investments for improvements on the land covered by the assignment.

(Sec. 32, 41 Stat. 450; 30 U. S. C. 189)

OSCAR L. CHAPMAN,
Secretary of the Interior.

JULY 28, 1951.

[F. R. Doc. 51-8906; Filed, Aug. 2, 1951; 8:46 a. m.]

Appendix—Public Land Orders

[Public Land Order 737]

ALASKA

WITHDRAWING PUBLIC LAND FOR CLASSIFICATION

By virtue of the authority contained in the act of June 25, 1910, 36 Stat. 847, as amended by the act of August 24, 1912, 37 Stat. 497 (43 U. S. C. 141–143), and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the following-described public land in Alaska is hereby withdrawn from settlement, location, sale, and entry, for classification:

Beginning at a point from which the southeast corner Sec. 32, T. 17 S., R. 7 W., F. M. bears approximately S. 66°23′ W., 2,460 feet, and the northeast corner Sec. 32, T. 17 S., R. 7 W., F. M. bears approximately N. 27°37′ W., 4,870 feet, thence by metes and bounds:

N. 19°50′ E., 1,820 feet.
S. 89°39′30″ E., 2,020 feet to west right-of-way line of Paxon-McKinley Park Road.
S. 0°20′30″ W., 2,370 feet along the right-of-way line.
Southwesterly, 350 feet along the right-of-way line on a curve to the P. O. T. of the north limit of right-of-way of the Cantwell Road.
N. 70°10′ W., 2,510 feet along the north right-of-way line of the Cantwell spur of the Paxon-McKinley Park Road to point of beginning.

The tract described contains approximately 120 acres.

OSCAR L. CHAPMAN,
Secretary of the Interior.

JULY 28, 1951.

[F. R. Doc. 51-8905; Filed, Aug. 2, 1951; 8:45 a. m.]

[Public Land Order 738]

ALASKA

RESERVING LANDS FOR THE USE OF THE DEPARTMENT OF THE AIR FORCE FOR MILITARY PURPOSES: PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 7309 WITHDRAWING PUBLIC LANDS IN AID OF LEGISLATION

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for the use of the Department of the Air Force for military purposes:

FAIRBANKS MERIDIAN

T. 1 S., R. 1 W.,
Sec. 14, SW¼ and S½SE¼.

The areas described aggregate 240 acres.

Executive Order No. 7309 of February 28, 1936, temporarily withdrawing lands in aid of legislation, is hereby revoked so far as its affects the above-described lands.

It is intended that the lands described above shall be returned to the administration of the Department of the Interior when they are no longer needed for the purpose for which they are reserved.

OSCAR L. CHAPMAN,
Secretary of the Interior.

JULY 28, 1951.

[F. R. Doc. 51-8903; Filed, Aug. 2, 1951; 8:45 a. m.]

[Public Land Order 739]

ARIZONA

WITHDRAWING PUBLIC LANDS FOR USE OF THE DEPARTMENT OF THE ARMY IN CONNECTION WITH THE ACTIVITIES OF THE ARIZONA NATIONAL GUARD

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the following-described public lands are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for the use of the Department of the Army in connection with the activities of the Arizona National Guard:

GILA AND SALT RIVER MERIDIAN

T. 8 S., R. 21 W., unsurveyed,
Secs. 27 and 34.

The areas described aggregate 1,280 acres.

This order shall take precedence over but not otherwise affect the order of March 14, 1929, of the Secretary of the Interior withdrawing lands for reclamation purposes, so far as such order affects the above-described lands.

It is intended that the lands described shall be returned to the administration of the Department of the Interior when they are no longer needed for the purpose for which they are reserved.

OSCAR L. CHAPMAN,
Secretary of the Interior.

JULY 28, 1951.

[F. R. Doc. 51-8907; Filed, Aug. 2, 1951; 8:46 a. m.]

TITLE 49—TRANSPORTATION

Chapter I—Interstate Commerce Commission

PART 10—STEAM ROADS: UNIFORM SYSTEM OF ACCOUNTS

MISCELLANEOUS AMENDMENTS

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 26th day of July A. D. 1951.

The matter of modifying the "Uniform System of Accounts for Steam Railroads, Issue of 1943," being under consideration pursuant to section 20 of the Interstate Commerce Act, as amended (24 Stat. 386, 54 Stat. 917, 49 U. S. C. 20 (3)); and,

It appearing, that a notice dated June 18, 1951 was served on all steam railroads subject to the act, to the effect that the modifications which are set forth below and made a part hereof had been approved, such notice also being published in the FEDERAL REGISTER on June 28, 1951 (16 F. R. 5256) pursuant to the provisions of section 4 of the Administrative Procedure Act; and,

It further appearing, that although the notice provided that objections to such modifications could be filed on or before July 20, 1951, no representations of any kind were received during the prescribed period; *It is ordered*, That:

(1) *Effective date.* The attached modifications shall become effective September 1, 1951.

(2) *Notice.* A copy of this order including the attached modifications shall be served on every steam railroad subject to the act and on every trustee, receiver, executor, administrator, or assignee of any such steam railroad, and notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director of the Division of the Federal Register.

By the Commission, Division 1.

[SEAL] W. P. BARTEL,
Secretary.

1. In § 10.503 *Hire of freight cars; credit balance*, without altering the title of or notes to the account, cancel the text and substitute the following for it:

§ 10.503 *Hire of freight cars; credit balance.* This account shall include, except as provided in the texts of accounts 509, "Income from lease of road and equipment," and 542, "Rent for leased roads and equipment," the net credit balance of (a) amounts receivable accrued for the use of the accounting company's freight cars leased or interchanged, and (b) amounts payable accrued for the use of the freight cars of others, leased or interchanged. (See § 10.05–2 *Leased road and equipment; depreciation.*)

2. In § 10.504 *Rent from locomotives*, without altering the title of or note to the account, cancel the text and substitute the following for it:

§ 10.504 *Rent from locomotives.* This account shall include, except as provided in the text of account 509, "Income from lease of road and equipment,"

amounts receivable accrued as rent for the use of the accounting company's locomotives leased or interchanged. (See Note C to account 717, "Interest and dividends receivable.")

3. In § 10.505 *Rent from passenger-train cars,* without altering the title of or note to the account, cancel the text and substitute the following for it:

§ 10.505 *Rent from passenger-train cars.* This account shall include, except as provided in the text of account 509, "Income from lease of road and equipment," amounts receivable accrued as rent for the use of the accounting company's passenger-train cars leased or interchanged. (See Note C, to account 717, "Interest and dividends receivable.")

4. In § 10.506 *Rent from floating equipment,* without altering the title of or note to the account, cancel the text and substitute the following for it:

§ 10.506 *Rent from floating equipment.* This account shall include, except as provided in the text of account 509, "Income from lease of road and equipment," amounts receivable accrued as rent for the use of the accounting company's floating equipment leased or chartered. (See Note C to account 717, "Interest and dividends receivable.")

5. In § 10.507 *Rent from work equipment,* without altering the title of or note to the account, cancel the text and substitute the following for it:

§ 10.507 *Rent from work equipment.* This account shall include, except as provided in the text of account 509, "Income from lease of road and equipment," amounts receivable accrued as rent for the use of the accounting company's work equipment leased or interchanged. (See Note C to account 717, "Interest and dividends receivable.")

6. In § 10.509 *Income from lease of road and equipment,* cancel the first paragraph of the text of the account and substitute the following for it:

§ 10.509 *Income from lease of road and equipment.* This account shall include the entire amount receivable accrued for the exclusive use of road, tracks, or bridges (including equipment or other railway property covered by the contract) the rented property being owned or controlled by the accounting company, whether payable to the accounting company in cash or disbursed by the lessee on behalf of the accounting company as interest on funded debt, guaranteed dividends on stock, or otherwise. (See Note C to account 717, "Interest and dividends receivable.")

7. In § 10.536 *Hire of freight cars; debit balance,* without altering the title of or notes to the account, cancel the text and substitute the following for it:

§ 10.536 *Hire of freight cars; debit balance.* This account shall include, except as provided for in the classification for investment in road and equipment and in the texts of accounts 509, "Income from lease of road and equipment," and 542, "Rent for leased roads and equipment," the net debit balance of (a) amounts receivable accrued for the use of the accounting company's freight cars leased or interchanged, and (b) amounts payable accrued for the use of the freight cars of others, leased or interchanged. (See § 10.05–2 *Leased road and equipment; depreciation.*)

8. In § 10.537 *Rent for locomotives,* without altering the title of or notes to the account, cancel the text and substitute the following for it:

§ 10.537 *Rent for locomotives.* This account shall include amounts payable accrued for the use of the locomotives of others, leased or interchanged, except as provided for in the classification for investment in road and equipment and in the text of account 542, "Rent for leased roads and equipment." (See § 10.05–2 *Leased road and equipment; depreciation.*)

9. In § 10.538 *Rent for passenger-train cars,* without altering the title or notes to the account, cancel the text and substitute the following for it:

§ 10.538 *Rent for passenger-train cars.* This account shall include amounts payable accrued for the use of the passenger-train cars of others, leased or interchanged, and also for use of sleeping cars operated under contract arrangement, except as provided for in the classification for investment in road and equipment and in the text of account 542, "Rent for leased roads and equipment." (See § 10.05–2 *Leased road and equipment; depreciation.*)

10. In § 10.539 *Rent for floating equipment,* without altering the title of or notes to the account, cancel the text and substitute the following for it:

§ 10.539 *Rent for floating equipment.* This account shall include amounts payable accrued for the use of the floating equipment of others, leased or chartered, except as provided for in the classification for investment in road and equipment and in the text of account 542, "Rent for leased roads and equipment." (See § 10.05–2 *Leased road and equipment; depreciation.*)

11. In § 10.540 *Rent for work equipment,* without altering the title of or notes to the account, cancel the text and substitute the following for it:

§ 10.540 *Rent for work equipment.* This account shall include amounts payable accrued for the use of the work equipment of others, leased or interchanged, except as provided for in the classification for investment in road and equipment and in the text of account 542, "Rent for leased roads and equipment." (See § 10.05–2 *Leased road and equipment; depreciation.*)

12. In § 10.542 *Rent for leased roads and equipment,* cancel the first sentence of the text of the account and substitute the following for it:

§ 10.542 *Rent for leased roads and equipment.* This account shall include amounts payable accrued as rent for roads, tracks, or bridges (including equipment or other railway property covered by the contract) the property being owned by other companies and held under lease or other agreement by the terms of which exclusive use and control for operating purposes are secured.

(Sec. 12, 24 Stat. 383, as amended; 49 U. S. C. 12. Interpret or apply sec. 20, 24 Stat. 386, as amended; 49 U. S. C. 20)

[F. R. Doc. 51–8922; Filed, Aug. 2, 1951; 8:50 a. m.]

PROPOSED RULE MAKING

DEPARTMENT OF AGRICULTURE

Production and Marketing Administration

[7 CFR Part 946]

HANDLING OF MILK IN LOUISVILLE, KY., MARKETING AREA

DECISION WITH RESPECT TO A PROPOSED MARKETING AGREEMENT AND A PROPOSED ORDER, AS AMENDED

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), public hearings were conducted at Louisville, Kentucky on December 18–21, 1950 and on March 9 and 14, 1951, pursuant to notices duly published in the FEDERAL REGISTER (15 F. R. 8827 and 16 F. R. 2041, respectively).

Upon the basis of the evidence introduced at the hearings and the record thereof, the Acting Assistant Administrator, Production and Marketing Administration, on July 2, 1951, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision in this proceeding. The notice of filing such recommended decision and opportunity to file written exceptions thereto was published in the FEDERAL REGISTER on July 7, 1951 (16 F. R. 6625).

Within the period reserved for exceptions producer and handler representatives filed exceptions to certain of the findings, conclusions and actions recommended by the Acting Assistant Administrator. In arriving at the findings, conclusions, and regulatory provisions of this decision, each of such exceptions was carefully and fully considered in conjunction with the record evidence pertaining thereto. In some instances comment has been made below. To the extent that the findings, conclusions,

and actions decided upon herein are at variance with the exceptions, such exceptions are overruled.

The material issues, findings (including general findings), conclusions, and rulings of the recommended decision (16 F. R. 6625) are hereby approved and adopted as the issues, findings, conclusions and rulings of this decision as if set forth in full herein, subject to the following modifications:

1. Delete in the third paragraph beginning in column 2, 16 F. R. 6629, the first two sentences and substitute therefor the following: "As proposed herein the Class II price for the months of August through March would be the higher of the average price paid by the seven local manufacturing plants or the price arrived at by the butter-skim formula which would be used in determining the basic formula price. The butter-skim formula used herein is described in the discussion of issue No. 10, and would result in an increase to producers for milk sold in the lower class of approximately 15 to 17 cents per hundredweight during the months of August through March."

2. Delete the first paragraph beginning in column 1, 16 F. R. 6630, and substitute therefor the following: "In addition to the contentions advanced in support of the higher Class II price during the months of August through March, producers contended that an additional 30 cents per hundredweight should be added to the price of Class II milk for the months of September through December to bring the Louisville Class II price in line with the price of Class III milk in the Cincinnati market. In the Cincinnati market producers are paid 30 cents per hundredweight additional during the months of October through February for milk which is used in the manufacture of ice cream. In that market it is required by the local health authorities that ice cream be made from approved sources when such supplies are available. The situation in Louisville is not similar since milk and milk products used in the manufacture of ice cream are not required to be made from milk from approved sources."

3. Add at the end of the seventh paragraph beginning in column 3, F. R. 6630, the following: "Exception was taken for failure to provide for compensatory payments to the Louisville producer-settlement fund on that milk subject to another Federal order which is sold as Class I in the Louisville market. It was contended that this position is inconsistent with the principle of requiring compensatory payments on other source milk classified as Class I. In the case of compensatory payments the milk involved is not priced under any order and is, in effect, unregulated milk; whereas there is assurance that a handler under another order selling milk in Louisville is paying the Class I price provided for in that other order."

Determination of representative period. The month of May 1951 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order amending the order, now in effect, regulating the handling of milk in the Louisville, Kentucky, marketing area, in the manner set forth in the attached order, as amended, is approved or favored by producers who, during such period, were engaged in the production of milk for sale in the marketing area specified in such marketing order.

Marketing agreement and order, as amended. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing agreement regulating the handling of milk in the Louisville, Kentucky, marketing area," and "Order, as amended, regulating the handling of milk in the Louisville, Kentucky, marketing area," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order, as amended, which will be published with this decision.

This decision filed at Washington, D. C., this 31st day of July 1951.

[SEAL] C. J. McCORMICK,
Acting Secretary of Agriculture.

Order[1] as Amended, Regulating the Handling of Milk in the Louisville, Kentucky, Marketing Area

AUTHORITY: §§ 946.0 to 946.101 issued under 48 Stat. 31, as amended, 7 U. S. C. 601 et seq.; 5 U. S. C. 133y–16.

§ 946.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary to and in addition to the findings and determinations made in connection with the issuance of this order and of each the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure, as amended, governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), public hearings were held December 18–21, 1950 and March 9 and 14, 1951 at Louisville, Kentucky, upon a proposed amendment to the tentative marketing agreement and to the order, as amended, regulating the handling of milk in the Louisville, Kentucky, marketing area. Upon the basis of the evidence introduced at such hearings and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all of

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply of and demand for milk in the said marketing area, and the minimum prices specified in the order, as amended and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk and be in the public interest; and

(3) The said order, as amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of milk in the Louisville, Kentucky, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby further amended, and the aforesaid order, as amended, is hereby further amended to read as follows:

DEFINITIONS

§ 946.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 946.2 *Secretary.* "Secretary" means the Secretary of Agriculture or any other officer or employee of the United States authorized to exercise the powers or to perform the duties pursuant to the act of the said Secretary of Agriculture.

§ 946.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or other Federal agency authorized to perform the price reporting functions specified in this subpart.

§ 946.4 *Person.* "Person" means any individual, partnership, corporation, association, or any other business unit.

§ 946.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 946.6 *Louisville, Kentucky, marketing area.* "Louisville, Kentucky, marketing area," hereinafter called the "marketing area," means the territory within Jefferson County, Kentucky, including but not being limited to the City of Louisville, the Fort Knox Military Reservation; the territory within Floyd County, Indiana, including but not being limited to all municipal corporations in said county; and the territory within the townships of Jeffersonville, Utica, Silver Creek, Union, and Charleston, in Clark County, Indiana.

§ 946.7 *City plant.* "City plant" means the building and facilities, except those of a producer-handler, which are used during the month in the processing and packaging of producer milk and from which not less than 10 percent of such milk is distributed in the container in which packaged from delivery routes or plant stores as Class I milk in the marketing area: *Provided*, That such building and facilities shall include any portion thereof which is used during the month in the processing of producer milk for any use.

§ 946.8 *Country plant.* "Country plant" means the building and facilities, except those of a city plant, which are used during the month in the receipt of milk from dairy farmers who hold dairy farm inspection permits issued by the appropriate health authority having jurisdiction in the marketing area and which are approved by such health authority to furnish milk to a city plant for use as Class I milk: *Provided*, That such building and facilities shall include any portion thereof which is used during the month in the processing of producer milk for any use.

§ 946.9 *Pool plant.* "Pool plant" means:

(a) A city plant;

(b) A country plant during the period of October through March for each month in which not less than 10 percent of its receipts from dairy farmers who hold dairy farm inspection permits issued by the appropriate health authority having jurisdiction in the marketing area is delivered to a city plant in the form of milk, skim milk, or cream; or

(c) A country plant during the months of April through September from which more than 50 percent of its combined receipts from dairy farmers, who held dairy farm inspection permits issued by the appropriate health authority having jurisdiction in the marketing area, during the preceding period of October through February were delivered to one or more city plants in the form of milk, skim milk or cream, unless the operator of such plant notifies the market administrator in writing on or before March 15th of withdrawal of the plant from the pool for the months of April through September next following.

§ 946.10 *Nonpool plant.* "Nonpool plant" means any milk manufacturing, processing or bottling plant other than a pool plant.

§ 946.11 *Handler.* "Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A producer-handler;

(c) Any cooperative association with respect to milk of producers which it causes to be diverted to a nonpool plant for the account of such cooperative association; or

(d) Any person, other than a producer-handler, in his capacity as operator of a nonpool plant used during the month for the processing and packaging of milk any portion of which is disposed of in the marketing area as Class I milk from delivery routes or plant stores.

§ 946.12 *Producer.* "Producer" means any person who produces, under a dairy farm inspection permit issued to such person by the appropriate health authority having jurisdiction in the marketing area (as used in this subpart, "dairy farm inspection permit" shall include approval of milk by the authority to administer regulations governing the quality of milk acceptable to agencies of the United States Government for fluid consumption in its institutions or bases located in the marketing area, which is received at a plant from which any portion of such milk is disposed of to such institutions or bases in the container in which packaged as Class I milk), milk which is:

(a) Delivered from his farm to a pool plant;

(b) Diverted by a handler to a pool plant or a nonpool plant: *Provided*, That any such milk so diverted shall be deemed to have been received at the pool plant from which it was diverted: *And provided further*, That this definition shall not include during any of the months of October through February, any person whose milk was diverted to a nonpool plant for more than one-half of the days of such month; or

(c) Diverted by a cooperative association to a nonpool plant for the account of the cooperative association: *Provided*, That any such milk so diverted shall be deemed to have been received by the cooperative association.

§ 946.13 *Producer milk.* "Producer milk" means all skim milk and butterfat in milk produced by a producer.

§ 946.14 *Other source milk.* "Other source milk" means all skim milk and butterfat received in any form from a producer-handler and from a source other than producers or pool plants, except the receipt of any non-fluid milk product which is disposed of in non-fluid form.

§ 946.15 *Producer-handler.* "Producer-handler" means any person who processes and packages milk from his own farm production, distributing any portion of such milk within the marketing area as Class I milk and who receives no milk from producers.

§ 946.16 *Chicago butter price.* "Chicago butter price" means the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department of Agriculture during the month.

MARKET ADMINISTRATOR

§ 946.20 *Designation.* The agency for the administration of this subpart shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 946.21 *Powers.* The market administrator shall have the following powers with respect to this subpart:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 946.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this subpart, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 946.87 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 946.86) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this subpart, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination and furnish such information and reports as may be requested by the Secretary;

(g) Verify all reports and payments of each handler by audit of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends, or by such investigation as the market administrator deems necessary;

(h) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information;

(i) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, within 5 days after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 946.30 through 946.32, or payments pursuant to §§ 946.80 through 946.85;

(j) On or before the 15th day after the end of each month, report to each cooperative association the percentage in each class of the producer milk caused to be delivered by the cooperative association or by its members to each handler during the month. For the purpose of this report the milk so received shall be allocated in each class for each handler in the same ratio as milk received from all producers by such handler during the month;

(k) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, and notify each handler in writing the prices and butterfat differentials determined for each month as follows:

(1) On or before the 10th day after the end of each month, the minimum prices for each class of milk computed pursuant to § 946.51, and the butterfat differentials for each class computed pursuant to § 946.52; and

(2) On or before the 10th day after the end of each month, the uniform price computed pursuant to § 946.71, and the butterfat differential computed pursuant to § 946.81;

(l) On or before the 11th day after the end of each month, the market administrator shall mail to each handler, at his last known address, a statement showing:

(1) The net obligation computed for such handler pursuant to § 946.70; and

(2) The amounts to be paid by such handler pursuant to §§ 946.61, 946.83, 946.86 and 946.87.

REPORTS, RECORDS, AND FACILITIES

§ 946.30 *Reports of receipts and utilization.* On or before the 5th day after the end of each month each handler, except a producer-handler, shall report to the market administrator in the detail and on the forms prescribed by the market administrator as follows:

(a) The quantities of skim milk and butterfat contained in milk received from producers (including such handler's own farm production);

(b) The quantities of skim milk and butterfat contained in receipts from pool plants of other handlers (except the receipt of any nonfluid milk product which is disposed of in nonfluid form);

(c) The quantities of skim milk and butterfat contained in receipts of other source milk;

(d) The utilization of all skim milk and butterfat required to be reported pursuant to this section;

(e) The disposition of Class I milk other than on routes and through plant stores operated wholly or partially within the marketing area; and

(f) Such other information with respect to receipts and utilization as the market administrator may prescribe.

§ 946.31 *Payroll reports.* On or before the 20th day after the end of each month, each handler shall submit to the market administrator his producer payroll for deliveries during the month which shall show (a) the total pounds of milk received from each producer and the average butterfat content of such milk, (b) the prices paid and the amount of payment to each producer, and (c) the nature and amount of any credits, deductions, or charges involved in such payments.

§ 946.32 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler shall report to the market administrator, as soon as possible after first receiving milk from any producer, the name and address of such producer, the date upon which such milk was first received, and the plant at which such milk was received: *Provided*, That milk diverted to a pool plant as described in § 946.12 (b) need not be reported pursuant to this paragraph.

(c) On or before the 10th day after the request of the market administrator, each handler shall submit a schedule of rates which are charged and paid for the transportation of milk from the farm of each producer to each handler's plant. Changes in such schedule of rates and the effective dates thereof shall be reported to the market administrator within 10 days.

§ 946.33 *Records and facilities.* Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts, records, and reports of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts and utilization of producer milk and other source milk;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream, and milk products handled;

(c) Payments to producers; and

(d) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and other milk products on hand at the beginning and end of each month.

§ 946.34 *Retention of records.* All books and records required under this subpart to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 946.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat which is received within the month by a handler and which is required to be reported pursuant to §§ 946.30 and 946.61 shall be classified by the market administrator pursuant to the provisions of §§ 946.41 through 946.46.

§ 946.41 *Classes of utilization.* Subject to the conditions set forth in §§ 946.42 through 946.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk and butterfat (1) disposed of in fluid form as milk, skim milk, cream (including sour cream), buttermilk, milk drinks (plain or flavored), except skim milk and butterfat disposed of in fluid form for livestock feed, (2) disposed of in fluid form as any milk product which is required by the appropriate health authority in the marketing area to be made from milk, skim milk, or cream, from sources approved by such authority, and (3) not accounted for as Class II milk.

(b) Class II milk shall be all skim milk and butterfat the utilization of which is established: (1) As used to produce any product other than those specified in paragraph (a) of this section, (2) as disposed of for livestock feed, (3) as disposed of in any form in bulk and used for non-fluid purposes by soda fountains, restaurants, bakeries, candy and soup manufacturers, and retail food establishments which, under the applicable health regulations, are permitted to receive milk, skim milk, and cream of other than Grade A quality for nonfluid uses, and (4) in plant shrinkage of skim milk and butterfat in milk received from producers and in other source milk computed pursuant to § 946.42.

§ 946.42 *Unaccounted for skim milk and butterfat and plant shrinkage.* Skim milk and butterfat received at a handler's pool plant(s) in excess of such handler's established utilization of skim milk and butterfat pursuant to subparagraphs (1) and (2) of paragraph (a) and subparagraphs (1), (2), and (3) of paragraph (b) of § 946.41 at such plant(s) shall be known as unaccounted for skim milk and butterfat and classified as follows: *Provided,* That if producer milk is diverted by such handler to a pool plant of another handler without having been received for purposes of weighing and testing in the diverting handler's plant, the respective quantities of skim milk and butterfat contained in such receipts of milk shall be included in the receipts of skim milk and butterfat, respectively, of the second handler in computing his plant shrinkage or unaccounted for skim milk and butterfat and shall be excluded from the receipts of skim milk and butterfat, respectively, in such computation for the diverting handler: *And provided further,* That if producer milk is so diverted to a nonpool plant the respective quantities of skim milk and butterfat contained therein shall be excluded from the receipts of the diverting handler in computing his plant shrinkage or unaccounted for skim milk and butterfat.

(a) Prorate the quantities of unaccounted for skim milk and butterfat between such handler's receipts of skim milk and butterfat, respectively, in the milk received from producers and other source milk.

(b) The following portions of the quantities computed pursuant to paragraph (a) of this section shall be known as shrinkage and classified as Class II milk: *Provided,* That if the quantities of skim milk and butterfat utilized and disposed of in milk and all milk products are not established by such handler all unaccounted for skim milk and butterfat prorated to receipts of milk from producers pursuant to paragraph (a) of this section shall be classified as Class I milk:

(1) That portion of skim milk and butterfat, respectively, prorated to receipts of other source milk;

(2) That portion which is prorated to skim milk in receipts of milk from producers but which, during the months of August through March, is not in excess of 2 percent of the total quantity of skim milk in such receipts and, during the months of April through July, is not in excess of 5 percent of the total quantity of skim milk in such receipts; and

(3) That portion which is prorated to butterfat in receipts of milk from producers but which is not in excess of 2 percent of the total quantity of butterfat in such receipts.

(c) That portion of skim milk and butterfat which is prorated to receipts of milk from producers, pursuant to paragraph (a) of this section, which is in excess of the amount of skim milk and butterfat, respectively, classified as Class II milk, pursuant to paragraph (b) of this section, shall be classified as Class I milk.

§ 946.43 *Responsibility for classification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect, or if used or reused by such handler or by another handler except a producer-handler in another class.

§ 946.44 *Transfers.* Skim milk or butterfat disposed of by a handler from a pool plant either by transfer or diversion shall be classified as follows:

(a) As Class I milk if transferred or diverted in the form of fluid milk, skim milk, or cream (excluding frozen cream) to a pool plant of another handler, unless utilization in Class II is mutually indicated in writing to the market administrator by both handlers on or before the 5th day after the end of the month within which such transaction occurred: *Provided,* That if upon inspection of the records of the transferee-handler it is found that an equivalent amount of skim milk or butterfat, respectively, was not actually used in such indicated use the remaining quantity shall be classified as Class I milk: *And provided further,* That if either or both handlers have received other source milk, the skim milk or butterfat so transferred or diverted shall be classified at both plants so as to allocate the highest-priced possible class utilization to producer milk.

(b) As Class I milk if transferred or diverted to a producer-handler in the form of fluid milk, skim milk, or cream (excluding frozen cream).

(c) As Class I milk if transferred or diverted in the form of milk or skim milk to a nonpool plant located 100 miles or more from the City Hall at Louisville, Kentucky, by the shortest hard surface highway distance as determined by the market administrator.

(d) As Class I milk if transferred or diverted in the form of milk or skim milk to a nonpool plant located less than 100 miles from the City Hall at Louisville, Kentucky, by the shortest hard surface highway distance as determined by the market administrator, and as Class I milk if transferred in the form of fluid cream to such a plant, wherever located, unless the following conditions are met:

(1) The handler claims classification in Class II milk on the basis of a utilization mutually indicated in writing to the market administrator by both the handler and the operator of the nonpool plant on or before the 5th day after the end of the month within which such transaction occurred;

(2) The market administrator is permitted to audit the books and records showing the utilization of all skim milk and butterfat received at such nonpool plant; and

(3) An amount of skim milk or butterfat, respectively, not less than that so transferred or diverted was used in the indicated use: *Provided,* That if upon inspection of the records of the nonpool plant it is found that an equivalent amount of skim milk or butterfat, respectively, was not actually used in such indicated use the remainder shall be classified as Class I milk.

§ 946.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the report of receipts and utilization submitted by each handler and shall compute the pounds of skim milk and butterfat in each class for such handler.

§ 946.46 *Allocation of skim milk and butterfat classified.* After making the computations pursuant to § 946.45, the market administrator shall determine for each handler the classification of milk received from producers as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract the plant shrinkage of skim milk in milk received from producers, determined pursuant to § 946.42 (b) (2), from the total pounds of skim milk in Class II;

(2) Subtract the pounds of skim milk in receipts of other source milk which are not subject to the Class I pricing provisions of another order or marketing agreement issued pursuant to the act from the remaining pounds of skim milk in Class II: *Provided,* That if the pounds of skim milk to be subtracted is greater than the remaining pounds of skim milk in Class II, the balance shall be subtracted from the pounds of skim milk in Class I;

(3) Subtract the pounds of skim milk in receipts of other source milk which are subject to the Class I pricing provisions of another order or marketing agreement issued pursuant to the act from the remaining pounds of skim milk in Class II: *Provided,* That if the pounds

of skim milk to be subtracted is greater than the remaining pounds of skim milk in Class II, the balance shall be subtracted from the pounds of skim milk in Class I;

(4) Subtract the pounds of skim milk in milk, skim milk, and cream received from pool plants of other handlers from the pounds of skim milk in the class to which it was assigned: *Provided*, That, if the pounds of skim milk to be subtracted is greater than the pounds of skim milk in such class, the balance shall be subtracted from the pounds of skim milk remaining in the next higher-priced class;

(5) Add the plant shrinkage of skim milk in milk received from producers subtracted in subparagraph (1) of this paragraph, to the remaining pounds of skim milk in Class II; and

(6) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk in milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II. Any amount of excess so subtracted shall be called "overage."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of milk remaining in each class computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

§ 946.50 *Basic formula price.* The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the highest of the prices computed pursuant to paragraphs (a), (b), and (c) of this section and subparagraph (1) of § 946.51 (b).

(a) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Add 20 percent to the Chicago butter price for the month and multiply by 3.8.

(2) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f. o. b. manufacturing plants in the Chicago area as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department of Agriculture, deduct 5.5 cents, and multiply by 8.2.

(b) The price per hundredweight computed by adding together the values determined pursuant to subparagraphs (1) and (2) of this paragraph, dividing by 7, adding 30 percent thereof, and then multiplying by 3.8.

(1) Multiply by 6 the Chicago butter price for the month.

(2) Multiply by 2.4 the simple average, as published by the Department of Agriculture, of the prices determined per pound of "Cheddars" on the Wisconsin Cheese Exchange at Plymouth, Wisconsin, for the trading days that fall within the month.

(c) To the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

Companies and Location

Borden Co., Black Creek, Wis.
Borden Co., Greenville, Wis.
Borden Co., Mount Pleasant, Mich.
Borden Co., New London, Wis.
Borden Co., Orfordville, Wis.
Carnation Co., Berlin, Wis.
Carnation Co., Jefferson, Wis.
Carnation Co., Chilton, Wis.
Carnation Co., Oconomowoc, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Sparta, Mich.
Pet Milk Co., Belleville, Wis.
Pet Milk Co., Coopersville, Mich.
Pet Milk Co., Hudson, Mich.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Wayland, Mich.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

add an amount computed by multiplying the Chicago butter price for the month by 0.12 and then by 3.

§ 946.51 *Class prices.* Subject to the provisions of § 946.52, the minimum prices per hundredweight to be paid by each handler for milk received at his pool plant(s) from producers during the month shall be as follows:

(a) *Class I milk.* The price of Class I milk shall be the basic formula price plus $1.25 per hundredweight.

(b) *Class II milk.* The price of Class II milk for the months of August through March shall be the price per hundredweight computed pursuant to § 946.50 (a), or that pursuant to subparagraph (1) of this paragraph, whichever is higher; and for the months of April through July the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph.

(1) From the average of the basic or field prices per hundredweight reported by, and ascertained by the market administrator to have been paid by the following concerns at the plants or places listed below, for ungraded milk of 4.0 percent butterfat content, without deductions for hauling or other charges to be paid by the farmer shipper, received from dairy farmers during the month:

Concern and Location

Kraft Foods Co., Lawrenceburg, Ky.
Armour Creameries, Elizabethtown, Ky.
Armour Creameries, Springfield, Ky.
Kraft Foods Co., Salem, Ind.
Ewing-Von Allmen Co., Corydon, Ind.
Ewing-Von Allmen Co., Madison, Ind.
Producers' Dairy Marketing Association, Orleans, Ind.

subtract the amount computed by multiplying the Chicago butter price for the month by 0.12, and then by 2.

(2) The price per hundredweight computed by adding together the plus values pursuant to subdivisions (i) and (ii) of this subparagraph:

(i) Add 15 percent to the Chicago butter price for the month and multiply by 3.8.

(ii) From the simple average as computed by the market administrator of the weighted averages of carlot prices per pound for nonfat dry milk solids, roller process, for human consumption, f. o. b. manufacturing plants in Chicago area as published for the period from the 25th day of the preceding month through the 25th day of the current month by the Department of Agriculture, deduct 5.5 cents and multiply by 8.2, and then deduct 8 cents.

§ 946.52 *Butterfat differential to handlers.* If the weighted average butterfat content of milk received from producers allocated to Class I milk or Class II milk, respectively, pursuant to § 946.46, for a handler is more or less than 3.8 percent, there shall be added to or subtracted from, as the case may be, the price for such class, for each one-tenth of 1 percent that such weighted average butterfat test is above or below 3.8 percent, a butterfat differential (computed to the nearest tenth of a cent), calculated for each class as follows:

(a) *Class I milk.* Multiply by 1.25 the Chicago butter price for the month and divide the result by 10.

(b) *Class II price.* For the months of August through March, multiply by 1.2 the Chicago butter price for the month and divide the result by 10, and for the months of April through July, multiply by 1.15 the Chicago butter price for the month and divide by 10.

APPLICATION OF PROVISIONS

§ 946.60 *Producer-handlers.* Sections 946.40 through 946.46, 946.50 through 946.52, 946.61, 946.70, 946.71, and 946.80 through 946.88 shall not apply to a producer-handler.

§ 946.61 *Handlers operating nonpool plants.* Sections 946.30 through 946.32, 946.50 through 946.52, 946.70, 946.71, 946.80 through 946.84, 946.86 and 946.87 shall not apply to a handler in his capacity as the operator of a nonpool plant described in § 946.11 (d), except that such handler shall:

(a) On or before the 5th day after the end of the month, make reports to the market administrator in such manner as he may request with respect to such handler's total receipts and utilization of skim milk and butterfat;

(b) On or before the 13th day after the end of each month, pay to the market administrator for deposit in the producer-settlement fund an amount of money computed by multiplying the quantity of Class I milk disposed of in the manner described in § 946.11 (d) by the difference between the price of Class II milk and the price of Class I milk adjusted by the butterfat differential to handlers; and

(c) On or before the 15th day after the end of the month, pay to the market administrator, as such handler's pro rata share of the expense of administration of this order, 2.5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all Class I milk and all milk, skim milk, and cream used to produce Class II products disposed of during the month in the marketing area in the manner described in § 946.11 (d).

§ 946.62 *Handlers subject to other orders.* In the case of any handler who

the Secretary determines disposes of a greater portion of his milk as Class I milk in another marketing area regulated by another order or a marketing agreement issued pursuant to the act, the provisions of this subpart shall not apply except the handler shall, with respect to his total receipts of skim milk and butterfat, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

DETERMINATION OF UNIFORM PRICE

§ 946.70 *Net obligation of each handler.* The net obligation of each handler for milk received during each month from producers shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class computed pursuant to § 946.46 by the applicable class price;

(b) Add together the resulting amounts;

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class pursuant to § 946.46 by the applicable class prices; and

(d) Add the amount computed by multiplying the pounds of other source milk which are allocated to Class I and which are not subject to the Class I pricing provisions of another order or marketing agreement issued pursuant to the act by the difference between the Class II and the Class I prices adjusted by the butterfat differential to handlers.

§ 946.71 *Computation of uniform price.* For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.8 percent butterfat content received from producers as follows:

(a) Combine into one total the net obligations computed for all handlers who made the reports prescribed in § 946.30 for the month and who are not in default of payments pursuant to § 946.83 for the preceding month;

(b) Subtract, if the average butterfat content of the producer milk included in these computations is greater than 3.8 percent, or add, if such average butterfat content is less than 3.8 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.8 percent by the butterfat differential computed pursuant to § 946.81 and multiplying the resulting figure by the total hundredweight of such milk;

(c) Subtract for each of the months of April, May, June, and July an amount computed by multiplying the total hundredweight of producer milk included in these computations by 12 percent of the simple average of the basic formula prices, computed to the nearest cent, for the 12 months of the preceding calendar year;

(d) Add an amount representing the cash balance on hand in the producer-settlement fund, less the total amount of contingent obligations to handlers pursuant to § 946.84 (a), and less the aggregate of the amounts held pursuant to paragraph (c) of this section for payment pursuant to § 946.84 (b);

(e) Divide the resulting total by the total hundredweight of producer milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for milk of 3.8 percent butterfat content received from producers at a handler's pool plant.

PAYMENTS

§ 946.80 *Time and method of payment.* On or before the 15th day after the end of each month, each handler shall pay to each producer from whom he received milk during the month an amount of money representing not less than the total value of such producer's milk at the uniform price per hundredweight, subject to the producer butterfat differential, and less deductions authorized by such producer, and less deductions for marketing services: *Provided,* That, if by such date such handler has not received full payment for such month pursuant to § 946.84, he may reduce uniformly per hundredweight for all producers his payments pursuant to this section by an amount not in excess of the per hundredweight reduction in payment from the market administrator; however, the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this section next following that on which such balance of payment is received from the market administrator.

§ 946.81 *Producer butterfat differential.* In making payment to producers pursuant to § 946.80, each handler shall add to the uniform price not less than, or subtract from the uniform price not more than, as the case may be, for each one-tenth of 1 percent that the average butterfat content of the milk received from the producer is above or below 3.8 percent, the amount set forth in the following schedule for the price range in which falls the Chicago butter price for the month during which such milk was received.

Butter price range (cents):	*Butterfat differential (cents)*
17.499 or less	2
17.50–22.499	2½
22.50–27.499	3
27.50–32.499	3½
32.50–37.499	4
37.50–42.499	4½
42.50–47.499	5
47.50–52.499	5½
52.50–57.499	6
57.50–62.499	6½
62.50–67.499	7
67.50–72.499	7½
72.50–77.499	8
77.50–82.499	8½
82.50–87.499	9
87.50–92.499	9½
92.50 and over	10

§ 946.82 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 946.61, 946.83, and 946.85 and out of which he shall make all payments pursuant to §§ 946.84 and 946.85: *Provided,* That payments due any handler shall be offset by payments due from such handler.

§ 946.83 *Payments to the producer-settlement fund.* On or before the 13th day after the end of each month, each handler shall pay to the market administrator any amount by which the net obligation of such handler for the month is greater than an amount computed by multiplying the hundredweight of milk received by him from producers during the month by the uniform price adjusted for the producer butterfat differential.

§ 946.84 *Payments out of the producer-settlement fund.* (a) On or before the 14th day after the end of each month, the market administrator shall pay to each handler for payment to producers any amount by which the net obligation of such handler for the month is less than an amount computed by multiplying the hundredweight of milk received by him from producers during the month by the uniform price adjusted for the producer butterfat differential: *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

(b) On or before the 14th day after the end of each of the months of September, October, November, and December, the market administrator shall pay out of the producer-settlement fund to each producer from whom milk was received by all handlers during the month an amount computed as follows: Divide one-fourth of the aggregate amount held pursuant to § 946.71 (c) by the hundredweight of milk received from producers by all handlers during the month and multiply the resulting amount (computed to the nearest cent per hundredweight) by the milk received from such producers during the month: *Provided,* That payment under this paragraph to any producer who has given authority to a cooperative association to receive payment for his milk shall be distributed to such cooperative association if the cooperative association requests receipt of such payments.

§ 946.85 *Adjustment of accounts.* Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever such verification discloses that payment is due from the market administrator to any handler, pursuant to § 946.84, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses pay-

ment of less than is required by § 946.80, the handler shall pay any amount so due not later than the time of making payment to producers next following such disclosure.

§ 946.86 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 946.80, shall deduct 5 cents per hundredweight, or such amount not in excess thereof as the Secretary may prescribe, with respect to all milk received by such handler from producers (other than such handler's own farm production) during the month and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom the Secretary determines a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made directly to such producers pursuant to § 946.80 as are authorized by such producers, and, on or before the 15th day after the end of each month, pay such deductions to the cooperative association rendering such services.

§ 946.87 *Expense of administration.* As his pro rata share of the expense of administration hereof, each handler shall pay to the market administrator, on or before the 15th day after the end of the month, 2.5 cents per hundredweight, or such amount to be not in excess thereof as the Secretary may prescribe, with respect to all receipts by such handler during the month of (a) milk from producers (including such handler's own farm production), and (b) other source milk classified as Class I milk pursuant to § 946.46. Each cooperative association which is a handler shall pay such pro rata share of expense on only that milk of producers caused to be diverted by such cooperative association to a nonpool plant and milk received from producers at a pool plant of such cooperative association.

§ 946.88 *Termination of obligations.* The provisions of this section shall apply to any obligation under this subpart for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this subpart shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producer(s) or cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this subpart, to make available to the market administrator or his representatives all books and records required by this subpart to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this subpart to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this subpart shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 946.90 *Effective time.* The provisions of this subpart, or any amendment to this subpart, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to paragraph (b) of this section.

§ 946.91 *Suspension and termination.* Any or all provisions of this subpart, or any amendment to this subpart, shall be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary may give, and shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

§ 946.92 *Continuing power and duty.* (a) If, upon the suspension or termination of any or all provisions of this subpart, there are any obligations arising hereunder the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator, or such other person as the Secretary may designate, shall (1) continue in such capacity until discharged, (2) from time to time account for all receipts and disbursements and, if so directed by the Secretary, deliver all funds or property on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (3) if so directed by the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant to this subpart.

§ 946.93 *Liquidation after suspension or termination.* Upon the suspension or termination of any or all provisions of this subpart, except §§ 946.34, 946.88, 946.91 through 946.93, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid and owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this subpart, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 946.100 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this subpart.

§ 946.101 *Separability of provisions.* If any provision of this subpart, or its application to any person, or circumstances, is held invalid, the application of such provision and of the remaining provisions of this subpart to other persons or circumstances shall not be affected thereby.

Order of the Secretary Directing That a Referendum Be Conducted Among the Producers; Determination That the Month of May 1951 Is a Representative Period; and Designation of an Agent To Conduct Such Referendum

Pursuant to section 8c (19) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c

(19)), it is hereby directed that a referendum be conducted among the producers (as defined in the proposed order, as amended, regulating the handling of milk in the Louisville, Kentucky, marketing area) who, during the month of May 1951, were engaged in the production of milk for sale in the marketing area specified in the aforesaid order to determine whether such producers favor the issuance of the order which is a part of the decision of the Secretary of Agriculture filed simultaneously herewith.

The month of May 1951 is hereby determined to be a representative period for the conduct of such referendum.

L. S. Iverson is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders as published in the FEDERAL REGISTER on August 10, 1950 (15 F. R. 5177).

[F. R. Doc. 51-8954; Filed, Aug. 2, 1951; 8:52 a. m.]

[7 CFR Part 951]

TOKAY GRAPES GROWN IN CALIFORNIA

NOTICE OF PROPOSED RULE MAKING WITH RESPECT TO EXPENSES AND FIXING OF RATE OF ASSESSMENT FOR 1951-52 SEASON

Consideration is being given to the following proposals which were submitted by the Industry Committee, established under the marketing agreement, as amended, and Order No. 51, as amended (7 CFR Part 951), regulating the handling of Tokay grapes grown in the State of California, as the agency to administer the terms and provisions thereof:

(a) That the Secretary of Agriculture find that expenses not to exceed $38,820.00 are likely to be incurred by said committee during the season beginning April 1, 1951, and ending March 31, 1952, both dates inclusive, for its maintenance and functioning under the aforesaid amended marketing agreement and order; and

(b) That the Secretary of Agriculture fix, as the share of such expenses which each handler who first ships grapes shall pay in accordance with the provisions of the aforesaid amended marketing agreement and order during the aforesaid season, the rate of assessment at $0.03 per hundred pounds of Tokay grapes shipped by such handler during said season.

All persons who desire to submit written data, views, or arguments for consideration in connection with the aforesaid proposals may do so by mailing the same to the Director, Fruit and Vegetable Branch, Production and Marketing Administration, Room 2077, South Building, Washington 25, D. C., not later than the 10th day after the publication of this notice in the FEDERAL REGISTER.

Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c)

Issued this 30th day of July 1951.

[SEAL] S. R. SMITH,
Director, Fruit and Vegetable Branch, Production and Marketing Administration.

[F. R. Doc. 51-8918; Filed, Aug. 2, 1951; 8:49 a. m.]

[7 CFR Part 968]

[Docket No. AO 173-A 5]

HANDLING OF MILK IN WICHITA, KANS., MARKETING AREA

PROPOSED AMENDMENTS TO THE TENTATIVE MARKETING AGREEMENT AND TO THE ORDER, AS AMENDED

Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.) and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a hearing to be held in the Aviation Room, Allis Hotel, Wichita, Kansas, beginning at 10:00 a. m., c. s. t., August 9, 1951, for the purpose of receiving evidence with respect to proposed amendments hereinafter set forth, or appropriate modifications thereof, to the tentative marketing agreement heretofore approved by the Secretary of Agriculture and to the order, as amended, regulating the handling of milk in the Wichita, Kansas, marketing area. These proposed amendments have not received the approval of the Secretary of Agriculture.

Amendments proposed by the Wichita Milk Producers Association:

1. Amend the order to provide for classifying concentrated milk in Class I on a milk equivalent basis.

2. Delete § 968.50 (a) and substitute the following:

(a) *Class I milk.* The price per hundredweight shall be the price determined pursuant to § 968.51 plus $1.65.

3. Delete § 968.50 (b) and substitute the following:

(b) *Class II milk.* The price per hundredweight shall be the price determined pursuant to § 968.51 plus $1.50.

4. Delete § 968.50 (c) and substitute the following:

(c) *Class III milk.* The price per hundredweight shall be average of the prices paid during each delivery period for ungraded milk containing 3.8% butterfat at the following plants now operated by the listed companies plus 10 cents: At Wichita, Kansas, by the DeCoursey Cream Company; at Blackwell, Oklahoma, by Wilson and Company; at Coffeyville, Kansas, by the Page Milk Company.

5. Provide that a handler, subject to another order with a lower Class I and Class II price, be required to pay into the producer settlement fund, with respect to any Class I or Class II milk sold in the area, an amount equal to the difference between the class prices in the order which he operates and the class prices in the Wichita order.

6. Delete § 968.5 and substitute the following:

§ 968.5 *Approved dairy farmer.* "Approved dairy farmer" means any person who holds a currently valid permit issued by any health authority having jurisdiction in the marketing area for the production of milk to be disposed of as Grade A milk.

7. In § 968.7 delete the words "the health authorities of the City of Wichita, Kansas," and substitute therefor the words "any health authority having jurisdiction in the marketing area."

Amendments proposed by DeCoursey Cream Company:

8. Amend § 968.40 (a) to read as follows:

(a) Except as provided in paragraph (c) of this section, milk, skim milk or cream moved in fluid form from an approved plant to an unapproved plant located more than 100 miles from the approved plant, shall be Class I if moved in the form of milk or skim milk, and Class II if moved in the form of cream. Except such milk, skim milk or cream which is moved from an approved plant to an unapproved plant more than 100 miles from the approved plant shall be considered as Class III if tagged or labeled "For Manufacturing Only".

9. As an alternative to proposal number 8, amend § 968.40 (a) to read as follows:

(a) Except as provided in paragraph (c) of this section, milk, skim milk, or cream moved in fluid form from an approved plant to an unapproved plant located more than 100 miles from the approved plant, shall be Class I if moved in the form of milk or skim milk, and Class II if moved in the form of cream. Except such milk, skim milk, or cream which is moved from an approved plant to an unapproved plant more than 100 miles from the approved plant shall be considered as Class II if transferred in the form of cream under Grade "A" certification and as Class III if so transferred without Grade "A" certification.

10. Amend § 968.40 (c) to read as follows:

(c) Milk, skim milk, or cream which is moved to an unapproved plant from an approved plant which regularly receives type C milk, and which is sold as "type C milk for manufacturing only" and is so tagged or labeled, may be classified as Class III milk up to the extent of the receipt of type C milk, cream or skim milk at the approved plant.

Amendment proposed by Beatrice Foods Company:

11. Amend § 968.41 (b) and (c) to provide that aerated cream be Class III milk instead of Class II milk.

Proposed by the Dairy Branch, Production and Marketing Administration:

12. Make such other changes as may be required to make the entire order conform with any amendment thereto which may result from this hearing.

Copies of this notice of hearing may be procured from the market administrator, 3808 Broadway, Kansas City 2, Missouri, and 310 Derby Building, 352 N. Broadway, Wichita 2, Kansas, or from the Hearing Clerk, United States Department of Agriculture, Room 1353, South Building, Washington 25, D. C., or may be there inspected.

Dated: July 31, 1951, at Washington, D. C.

[SEAL] ROY W. LENNARTSON,
Assistant Administrator.

[F. R. Doc. 51-8951; Filed, Aug. 2, 1951; 8:51 a. m.]

NOTICES

DEPARTMENT OF COMMERCE

Federal Maritime Board

MEMBER LINES OF THE PACIFIC STRAITS CONFERENCE ET AL.

NOTICE OF DISAPPROVAL OF AGREEMENTS BY THE BOARD

Notice is hereby given that the Board by order dated July 26, 1951, disapproved the following described agreements pursuant to Section 15 of the Shipping Act, 1916, as amended:

Agreements 5680-6, between the member lines of the Pacific/Straits Conference; 6060-8, between the member lines of the Pacific/Indonesian Conference; 4294-14, between the member lines of the Pacific Coast/Caribbean Sea Ports Conference; 4630-12 between the member lines of the Pacific/West Coast of South America Conference; 6170-7, between the member lines of the Capca Freight Conference; 6400-6, between the member lines of the Pacific Coast/River Plate Brazil Conference; and 7170-5, between member lines of the Pacific Coast/Panama Canal Freight Conference, providing for the inclusion in the basic agreements of said conferences of a provision reading as follows:

Brokerage. Brokerage may be paid by member lines in accordance with the tariff, rules, and regulations of the Conference, from time to time effective. Nothing herein contained, nor in the tariff, rules, and regulations, shall prohibit the payment of such brokerage.

The Board found that said agreements and the proposed tariff rules adopted by the conferences to become effective upon approval of said modification agreements are violative of the United States Maritime Commission's decision of November 17, 1949, in Docket No. 657, and for the reasons set forth in that decision are detrimental to the commerce of the United States; and disapproved said agreements without prejudice to the right of the conferences to resubmit modifications of their basic agreements to provide for the establishment of rules and regulations covering the payment of brokerage which will be in conformity with the decision in Docket 657, any such rules and regulations to be included in the modification agreements or submitted in conjunction with such modification agreements as a tariff rule to become effective following approval of said modification agreements.

Interested parties may obtain copies of these agreements at the Regulation Office, Federal Maritime Board, Washington, D. C.

Dated: July 31, 1951.

By order of the Federal Maritime Board.

[SEAL] A. J. WILLIAMS,
Secretary.

[F. R. Doc. 51-8910; Filed, Aug. 2, 1951; 8:47 a. m.]

National Production Authority

[NPA Delegation 7, Revocation]

DIRECTORS OF REGIONAL OFFICES AND MANAGERS OF DISTRICT OFFICES OF COMMERCE DEPARTMENT

DELEGATION OF AUTHORITY TO ADMINISTER NPA ORDER M-4

NPA Delegation 7 is hereby revoked. This revocation shall take effect on August 3, 1951.

NATIONAL PRODUCTION AUTHORITY
MANLY FLEISCHMANN,
Administrator.

[F. R. Doc. 51-9103; Filed, Aug. 2, 1951; 5:15 p. m.]

[NPA Delegation 14, as Amended]

ADMINISTRATOR OF FEDERAL SECURITY AGENCY ET AL.

DELEGATION OF AUTHORITY TO PROCESS APPLICATIONS UNDER NPA ORDER M-4A, AND TO MAKE ALLOTMENTS AND TO ASSIGN RATINGS UNDER CMP REGULATION NO. 6.

1. Pursuant to the authority under the Defense Production Act of 1950 (Pub. Law 774, 81st Cong. as extended by Pub. Law 69, 82d Cong.), Executive Orders 10161 (15 F. R. 6105) and 10200 (16 F. R. 61), and Defense Production Administration Delegation 1 (16 F. R. 738), the following functions to be performed pursuant to NPA Order M-4A and CMP Regulation No. 6 are delegated to each of the persons named in Table I of this Delegation, with power to delegate and to authorize successive delegations with respect to the categories of construction set forth in Table I opposite his name: To authorize construction schedules of prime contractors in accordance with the provisions of CMP Regulation No. 6; to make allotments of controlled materials for construction; to apply or assign to others the right to apply DO ratings and allotment numbers and symbols for procurement of materials and products other than controlled materials which are required for construction under an approved construction program as provided by CMP Regulation No. 6. Power is further delegated to process applications for adjustment or exception under the provisions of CMP Regulation No. 6, and to take final appellate action under the regulation.

2. The authority delegated by paragraph 1 of this delegation shall be exercised within such construction program determinations or other quantitative restrictions as may be established by the Defense Production Administration, and in accordance with such instructions, record-keeping and reporting requirements, and policy directives as may be issued from time to time by the National Production Authority. Such delegated authority shall also be exercised in conformity with the regulations and orders of the National Production Authority and in conformity with the provisions of CMP Regulation No. 6 and as contained in the instructions applicable to forms to be made use of in connection with CMP Regulation No. 6, or such other forms as have been or will be approved by the National Production Authority.

3. In addition, the following power is delegated to the persons named in subparagraphs (a) and (b) of this paragraph with power to delegate and to authorize successive delegations.

(a) To the Administrator of Veterans Affairs, and to the Administrator of the Federal Security Agency, power to receive, consider, pass upon, and take action in his own name, including appellate action, upon applications for adjustment or exception under the provisions of section 4 of NPA Order M-4A, to authorize commencement of construction of buildings, structures, or projects of the type specified in Table I of NPA Order M-4A, which buildings, structures, or projects are required as part of an integrated hospital program.

(b) To the Administrator of the Federal Security Agency, power to receive, consider, pass upon, and take action in his own name, including appellate action, upon applications for adjustment or exception under the provisions of section 4 of NPA Order M-4A, to authorize commencement of construction of a gymna-

sium which is to be an integral part of a school plant and is to be used primarily in instructional purposes in physical education and training, and which does not include facilities for spectator seating.

4. Any adjustment or exception under NPA Order M–4A issued by any delegate pursuant to this delegation must be correlated with the delegate's activities under the Controlled Materials Plan of the National Production Authority; and all projects approved by each delegate, and the allotment of controlled materials made therefor, will be charged against the total construction program and allotments approved for such delegate by the Defense Production Administration.

5. As used in this delegation, the terms "petroleum," "gas," "solid fuels," "electric power," "metals and minerals," "food," "domestic transportation," "storage," and "port facilities" have the same meanings as are set forth in Executive Order 10161.

6. All actions taken pursuant to this delegation shall be in the name of the delegate or other official to whom like authority has been delegated by the delegate, and shall be authenticated by the signature and title of the individual authorized to take such actions.

This amendment shall take effect on August 3, 1951.

NATIONAL PRODUCTION AUTHORITY,
MANLY FLEISCHMANN,
Administrator.

TABLE I

Delegate	*Category of Construction*
The Administrator of the Federal Security Agency.	All school and library construction, all hospital and health facility construction other than the Veterans' Administration and military hospitals; all other health and sanitation programs (but not water supply and sewer construction programs) except such types of construction on federally owned property under the control of the Atomic Energy Commission, and such types of construction on military reservations; college housing.
The Administrator of Veterans' Affairs.	The hospital program of the Veterans' Administration.
The Administrator of the Housing and Home Finance Agency.	Housing construction, alteration, and repair, except: housing and community facilities on federally owned property under the control of the Atomic Energy Commission, housing on military reservations, military housing under Public Law 211, 81st Congress; college housing, and farmstead construction.
The Secretary of Agriculture	Farm construction, including farmstead construction; food production and processing facilities, and wholesale food distribution facilities within the limits of the memorandum of agreement between the Administrator of the Production and Marketing Administration and the Administrator of the National Production Authority (16 F. R. 3410), as from time to time amended or supplemented.
The Secretary of the Interior	Facilities for departmental programs of the Department of the Interior; facilities for the production, preparation, and processing of solid fuels; facilities for the generation, transmission, and distribution of electric power; facilities for the production and processing of the metals and minerals listed in column 1 of Appendix A of NPA Delegation No. 5; facilities for the production and processing of fishery products.
The Petroleum Administrator for Defense.	Facilities for the production, processing, refining, and distribution of petroleum and gas, and facilities for the production, processing, and distribution of the products listed in Appendix A of NPA Delegation No. 9 (but not filling stations).
The Secretary of Commerce	Bureau of Public Roads programs for highway construction and maintenance of all rural and urban highways, streets, highway equipment repair shops, bridges, tunnels, toll road facilities, and appurtenant installations, regardless of financing; air navigation facilities, civil airports; shipyards.
The Administrator of the Defense Transport Administration.	Facilities for domestic transportation, storage, and port facilities, as defined in E. O. 10161.
The Atomic Energy Commission.	All construction by, or for the account of the Atomic Energy Commission; industrial construction sponsored by the Atomic Energy Commission.
The National Advisory Committee for Aeronautics.	All construction by, or for the account of the National Advisory Committee for Aeronautics.
The Department of Defense	Construction by or for the account of the Department of Defense and all military housing under Public Law 211 81st Congress; Navy construction; Army construction; Air Force construction including but not limited to projects of an industrial nature financed by the Air Force; military command construction.
General Services Administration.	Federal buildings and facilities except as otherwise designated on this table.

[F. R. Doc. 51–9102; Filed, Aug. 2, 1951; 5:15 p. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Misc. No. 153699]

CALIFORNIA

REVOCATION OF ORDER OPENING LANDS TO ENTRY UNDER THE FOREST HOMESTEAD ACT

JULY 30, 1951.

Pursuant to the request of the Department of Agriculture and in accordance with Departmental Order No. 2583 § 2.22 (a) of August 16, 1950 (15 F. R. 5643), it is ordered as follows:

Subject to any valid intervening adverse claims, the order listed below opening lands in the Modoc National Forest, California, to entry under the act of June 11, 1906, as amended, 34 Stat. 233 (16 U. S. C. 506–509), is hereby revoked so far as it affects the following-described lands:

Date of order of opening	List No.	Land
Dec. 19, 1911	5-851	T. 40 N., R. 14 E., M. D. M., Sec. 26, SW¼NW¼ NW¼NE¼, W½SW¼ NW¼NE¼, W½NW¼ SW¼NE¼, NW¼SW¼ SW¼NE¼, and E½ NE¼SE¼, containing 35 acres.

WILLIAM ZIMMERMAN, Jr.,
Associate Director.

[F. R. Doc. 51–8914; Filed, Aug. 2, 1951; 8:48 a. m.]

[Misc. No. 510015]

ALASKA

RESTORATION ORDER NO. 1302 UNDER FEDERAL POWER ACT

JULY 30, 1951.

Pursuant to the determination of the Federal Power Commission (DA–46, Alaska) and in accordance with Departmental Order No. 2583, § 2.22 (a) of August 16, 1950, it is ordered as follows:

Subject to valid existing rights and the provisions of existing withdrawals, the following-described public land, so far as it is withdrawn or reserved for power purposes by Power Site Reserve No. 485 of April 1, 1915, is hereby restored for entry under the laws applicable to unsurveyed public lands, subject to the provisions of section 24 of the Federal Power Act of June 10, 1920, 41 Stat. 1075 (16 U. S. C. 818), as amended:

Beginning at the point where the Tenalian River enters Lake Clark in approximate latitude 60°12′ N., longitude 154°24′ W.,

Thence southerly along the shore of Lake Clark approximately 40 chains to the southerly end of Tenalian Point;

Easterly approximately 20 chains;

Northerly approximately 40 chains;

Westerly approximately 20 chains to the place of beginning.

The tract as described contains approximately 80 acres.

This order shall become effective at 10:00 a. m., on the 35th day after publication in the FEDERAL REGISTER. At that time the said land shall become subject to application, petition, location and se-

lection subject to the requirements of applicable law and the 90-day preference right filing period for veterans and others entitled to preference under the act of September 27, 1944, 58 Stat. 747 (43 U. S. C. 279–284), as amended.

WILLIAM ZIMMERMAN, Jr.,
Associate Director.

[F. R. Doc. 51–8915; Filed, Aug. 2, 1951; 8:48 a. m.]

ARIZONA

NOTICE FOR FILING OBJECTIONS TO ORDER WITHDRAWING PUBLIC LANDS FOR USE OF THE DEPARTMENT OF THE ARMY IN CONNECTION WITH THE ACTIVITIES OF THE ARIZONA NATIONAL GUARD [1]

For a period of 30 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

OSCAR L. CHAPMAN,
Secretary of the Interior.

JULY 28, 1951.

[F. R. Doc. 51–8908, Filed, Aug. 2, 1951; 8:46 a. m.]

ALASKA

NOTICE FOR FILING OBJECTIONS TO ORDER RESERVING LANDS FOR THE USE OF THE DEPARTMENT OF THE AIR FORCE FOR MILITARY PURPOSES; PARTIAL REVOCATION OF EXECUTIVE ORDER NO. 7309 WITHDRAWING PUBLIC LANDS IN AID OF LEGISLATION [2]

For a period of 60 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

OSCAR L. CHAPMAN,
Secretary of the Interior.

JULY 28, 1951.

[F. R. Doc. 51–8904; Filed, Aug. 2, 1951; 8:45 a. m.]

[1] See F. R. Doc. 51–8907, Title 43, Chapter I, Appendix, *supra.*

[2] See F. R. Doc. 51–8903, Title 43, Chapter I, Appendix, *supra.*

ECONOMIC STABILIZATION AGENCY

GO 9—ORGANIZATION FOR RENT STABILIZATION

Sec.
1. Purpose.
2. Legal basis.
3. Organization.
4. Delegation of authority.
5. Effect on other orders.

SECTION 1. *Purpose.* (a) The purpose of this order is to establish an Office of Rent Stabilization in the Economic Stabilization Agency and to define its functions.

SEC. 2. *Legal basis.* (a) The basic authority for the establishment of a program of rent stabilization is contained in the Housing and Rent Act of 1947, as amended (Pub. Law 129, 80th Cong., as amended by Pub. Laws 422 and 464, 80th Cong.; Pub. Laws 31, 574, and 880, 81st Cong.; and Pub. Laws 8, 69, and 96, 82d Cong.). This authority is implemented by the terms of Executive Order No. 10161 of September 9, 1950, and Executive Order No. 10276 of July 31, 1951.

(b) Executive Order No. 10161 of September 9, 1950 (15 F. R. 6105) authorizes the Economic Stabilization Administrator to define the internal organization of the Economic Stabilization Agency.

SEC. 3. *Organization.* (a) There herewith is established an Office of Rent Stabilization within the Economic Stabilization Agency, to be headed by a Director of Rent Stabilization, who will be responsible to the Economic Stabilization Administrator.

SEC. 4. *Delegation of authority.* (a) All powers, duties, and functions conferred on the President by Title II of the Housing and Rent Act of 1947, exclusive of section 208 (a), as amended, and delegated to the Economic Stabilization Administrator by Executive Order No. 10276, shall be exercised and performed by the Director of Rent Stabilization pursuant to Executive Order No. 10276 and except as otherwise provided by this order.

(b) The aforementioned delegation of authority reflects the Administrator's policy to delegate to constituent agencies operating authority to the fullest practicable extent consistent with his ultimate responsibility for the conduct of the Agency's activities in a reasonable and efficient manner. The delegated authority shall be exercised within the framework of such general policies as the Administrator may prescribe, subject to program and policy review by the Office of the Administrator. Included in such review will be the clearance by the Administrator of important policy issuances contemplated by the Director of Rent Stabilization, prior to issuance.

(c) Pursuant to the aforementioned delegation of authority, the Director of Rent Stabilization, is responsible for the effective development and administration of an appropriate program of rent stabilization. The Director may redelegate to subordinate officials, subject to such additional conditions or limitations as he may see fit to prescribe, the authority delegated to him by this order.

(d) The records, property and personnel of the Office of the Housing Expediter, and the unexpended balances of appropriations, allocations, and other funds of the Office of the Housing Expediter hereafter transferred or otherwise made available to the Economic Stabilization Agency pursuant to paragraph 4 of Executive Order No. 10276 shall be transferred to and administered by the Office of Rent Stabilization.

(e) The Administrator retains final authority with respect to rents for Government quarters, including housing accommodations owned or operated by any Federal agency, in areas under Federal rent control. Whenever the Director of Rent Stabilization and the Federal agency administering such rents do not agree on proposed rental schedules, the Director of Rent Stabilization and the affected Federal agency shall submit their views to the Administrator. He will make the final determination pursuant to Title II of the Housing and Rent Act of 1947, as amended, Executive Order 10276, and Bureau of the Budget Circular A–45.

(f) Responsibility for determination as to the adequacy of relaxation of credit controls for real estate construction in areas which have been certified by the Secretary of Defense and the Director of Defense Mobilization, acting jointly, to be critical defense housing areas, is retained by the Administrator.

SEC. 5. *Effect on other orders.* (a) The Office of Rent Stabilization is subject to the terms of all orders contained in the Manual of Orders of the Economic Stabilization Agency. (See General Order No. 1.)

(b) All other orders or parts of orders, the provisions of which are inconsistent or in conflict with the provisions of this order, are hereby amended or superseded accordingly.

Issued: Washington, D. C., July 31, 1951 at 8:05 p. m.

ERIC JOHNSTON,
Administrator.

[F. R. Doc. 51–9101; Filed, Aug. 2, 1951; 12:02 p. m.]

Office of Rent Stabilization

[ORS General Order 1]

ADOPTION, RATIFICATION, CONFIRMATION, AND VALIDATION OF OHE ACTIONS AND DELEGATIONS OF AUTHORITY

Adoption, ratification, confirmation, and validation of OHE actions and delegations of authority. All rules, regulations, interpretations, orders, directives, directions, certificates, delegations of authority, including the continuing authority to issue orders and to take other action thereunder, organizational documents, procedural documents, and any other actions which were issued, adopted, or taken by, or under the authority of, the Housing Expediter, or by any other authorized official of the Office of the Housing Expediter, and which were in effect on July 31, 1951, are, hereby adopted, ratified and confirmed, and shall remain in full force and effect until they expire by their terms or are revoked or amended. For the purposes hereof, wherever appropriate: references to "Housing Expediter" shall be construed to be references to "Director of Rent Stabilization"; references to "Deputy Housing Expediter" shall be construed to be references to "Deputy Director"; references to "Office of the Housing Expediter" shall be construed to be references to "Office of Rent Stabilization"; references to "Regional Housing Expediter" shall be construed to be references to "Regional Director of Rent Stabilization"; and references to "Deputy Regional Housing Expediter" shall be construed to be references to "Deputy Regional Director."

(Pub. Laws 129, 422, 464, 80th Cong.; Pub. Laws 31, 574, 880, 81st Cong.; Pub. Laws 8, 69, 96, 82d Cong.)

Issued and effective this 1st day of August 1951.

TIGHE E. WOODS,
Director of Rent Stabilization.

[F. R. Doc. 51-8992; Filed, Aug. 1, 1951; 12:11 p. m.]

ORGANIZATION DESCRIPTION, INCLUDING DELEGATIONS OF FINAL AUTHORITY

DESIGNATION OF EMPLOYEES TO TAKE OATHS

Pursuant to authority contained in the Housing and Rent Act of 1947, as amended (Public Law 129, 80th Congress; Public Law 31, 81st Congress; Public Law 96, 82d Congress), the following employees of the Office of Rent Stabilization are authorized and empowered to administer to or take from any person an oath, affirmation or affidavit when such instrument is required in connection with the performance of the functions or activities of the Director of Rent Stabilization and such employees are further authorized and empowered to administer oaths and affirmations in connection with such studies, investigations and hearings, and the obtaining of such information, as may be necessary or proper to assist the Director of Rent Stabilization in prescribing any regulation or order under the Housing and Rent Act of 1947, as amended, or in the administration and enforcement of the Housing and Rent Act of 1947, as amended, and regulations and orders prescribed thereunder:

NATIONAL OFFICE

General Manager.
Deputy Director.
National Board Coordinator.
General Counsel.
Assistant General Counsels.
Litigation Attorneys.
Director of Compliance.
Field Agents.
Authorizing and Certifying Officer.
National Field Representatives.
Special Investigators.

REGIONAL OFFICES

Regional Board Coordinators.
Field Agents.
Regional Directors.
Deputy Regional Directors.
All Attorneys.
Regional Field Representatives.
Regional Compliance Officers.
Regional Compliance Field Representatives.
Supervising Investigators.
Investigators.
Inspectors.

AREA RENT OFFICES

Area Rent Directors.
Persons serving as Secretary to Area Rent Directors.
All Attorneys.
Compliance Investigators.
Compliance Negotiators.
Chief, Public Service Section.
Examiner-Inspectors.
Information Receptionists.
Adjustment Analysts.
Landlord-Tenant Consultants.
Contact Representatives.
Supervising Contact Representatives.

BRANCH OFFICES

Associated Area Rent Directors.
Persons serving as Secretary to Associate Area Rent Directors.
Area Rent Representatives.
Persons serving as Secretary to Area Rent Representatives.

(Pub. Law 129, 80th Cong.; Pub. Law 31, 81st Cong.; Pub. Law 96, 82d Cong.)

Issued and effective this 1st day of August 1951.

TIGHE E. WOODS,
Director of Rent Stabilization.

[F. R. Doc. 51-8994; Filed, Aug. 1, 1951; 12:12 p. m.]

FEDERAL POWER COMMISSION

[Docket No. E-6372]

INDIANA & MICHIGAN ELECTRIC CO. AND PUBLIC SERVICE CO. OF INDIANA, INC.

NOTICE OF APPLICATION

JULY 30, 1951.

Take notice that on July 27, 1951, a joint application was filed with the Federal Power Commission, pursuant to section 203 of the Federal Power Act, by Indiana & Michigan Electric Company ("Indiana Company"), a corporation organized under the laws of Indiana and doing business in said State with its principal business office at Fort Wayne, Indiana, and by Public Service Company of Indiana, Inc. ("Service Company"), a corporation organized under the laws of Indiana and doing business in said State with its principal business office at Plainfield, Indiana, seeking an order approving the sale by Indiana Company and the purchase by Service Company of approximately 3.03 miles of 132 kv single circuit transmission line and appurtenant right of way situated in Henry County, Indiana, for a cash consideration of $76,989.60; all as more fully appears in the application on file with the Commission.

Any persons desiring to be heard or to make any protest with reference to said application should, on or before August 20, 1951, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-8913; Filed, Aug. 2, 1951; 8:48 a. m.]

[Docket No. G-1689]

ASSOCIATED NATURAL GAS CO.

NOTICE OF FINDINGS AND ORDER ISSUING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

JULY 30, 1951.

Notice is hereby given that, on July 27, 1951, the Federal Power Commission issued its findings and order entered July 26, 1951, issuing certificate of public convenience and necessity in the above-entitled matter.

[SEAL] LEON M. FUQUAY,
Secretary.

[F. R. Doc. 51-8912; Filed, Aug. 2, 1951; 8:47 a. m.]

GENERAL SERVICES ADMINISTRATION

ASSISTANT ADMINISTRATOR FOR DEFENSE COORDINATION

DELEGATION OF AUTHORITY WITH RESPECT TO CERTAIN CONTRACTS, COMMITMENTS, GUARANTEES, AND OTHER CONTRACT DOCUMENTS

1. Pursuant to the authority of the Defense Production Act of 1950, as amended (Public Law 774, 81st Congress and Public Law 69, 82d Congress), and the Executive orders issued pursuant thereto, there is hereby delegated to the Assistant Administrator for Defense Coordination the authority vested in me to make or modify all contracts, commitments, guarantees and other contract documents which are in whole or in part to be made or modified under the authority of the Defense Production Act of 1950, as amended, and to perform all functions related to the foregoing.

2. Nothing herein shall be deemed to supersede or affect authority heretofore delegated to other officials of the General Services Administration.

3. This delegation is effective as of the date hereof.

Dated: July 27, 1951.

JESS LARSON,
Administrator.

[F. R. Doc. 51-8911; Filed, Aug. 2, 1951; 8:47 a. m.]

INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 26291]

LUMBER FROM LIVE OAK AND SLADE, FLA., TO THE SOUTHWEST

APPLICATION FOR RELIEF

JULY 31, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for carriers parties to Agent C. A. Spaninger's tariff I. C. C. No. 934.

Commodities involved: Lumber and related articles, carloads.

From: Live Oak ad Slade, Fla.

To: Points in southwestern territory.

Grounds for relief: Circuitous routes, competition with rail carriers, and market competition.

Schedules filed containing proposed rates: C. A. Spaninger's tariff I. C. C. No. 934, Supp. 91.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8924; Filed, Aug. 2, 1951; 8:50 a. m.]

[4th Sec. Application 26292]

GRAIN FROM, TO AND BETWEEN POINTS IN THE WESTERN DISTRICT

APPLICATION FOR RELIEF

JULY 31, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. E. Kipp, Agent, for carriers parties to Grain and Grain Products, 205 I. C. C. 301.

Commodities involved: Grain, grain products, and related articles, carloads.

From, to, and between points in the western district.

Grounds for relief: Rail competition, market competition, circuity, grouping, and additional commodities.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8926; Filed, Aug. 2, 1951; 8:50 a. m.]

[4th Sec. Application 26293]

ELECTRODES FROM BLACK FORK, OHIO, TO NATCO, TENN.

APPLICATION FOR RELIEF

JULY 31, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. C. Schuldt, Agent, for carriers parties to his tariff I. C. C. No. 4300, pursuant to fourth-section order No. 9800.

Commodities involved: Electrodes, carbon furnace or electrolytic bath, carloads.

From: Black Fork, Ohio.

To: Natco, Tenn.

Grounds for relief: Circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8927; Filed, Aug. 2, 1951; 8:51 a. m.]

[4th Sec. Application 26294]

DRUGS AND MEDICINES FROM KALAMAZOO AND UPJOHN, MICH., TO ATLANTA AND CERTAIN OTHER POINTS IN GEORGIA

APPLICATION FOR RELIEF

JULY 31, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: L. C. Schuldt, Agent, for carriers parties to his tariff I. C. C. No. 4300, pursuant to fourth-section order No. 9800.

Commodities involved: Drugs, medicines, chemicals, and toilet preparations, carloads.

From: Kalamazoo and Upjohn, Mich.

To: Atlanta, Ga., and certain other points in Georgia.

Grounds for relief: Circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8928; Filed, Aug. 2, 1951; 8:51 a. m.]

[4th Sec. Application 26290]

ETHYLENE GLYCOL FROM PORT NECHES, TEX., TO CLEVELAND, OHIO

APPLICATION FOR RELIEF

JULY 31, 1951.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, for carriers parties to his tariff I. C. C. No. 3721.

Commodities involved: Ethylene glycol, in tank-car loads.

From: Port Neches, Tex.

To: Cleveland, Ohio.

Grounds for relief: Circuitous routes and competition with rail carriers.

Schedules filed containing proposed rates: D. Q. Marsh's tariff I. C. C. No. 3721, Supp. 187.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days

from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8929; Filed, Aug. 2, 1951; 8:51 a. m.]

[Rev. S. O. 562, King's I. C. C. Order 50, Amdt. 1]

CHESAPEAKE AND OHIO RAILROAD CO.

REROUTING OR DIVERSION OF TRAFFIC

Upon further consideration of King's I. C. C. Order No. 50 and good cause appearing therefor: *It is ordered,* That: King's I. C. C. Order No. 50 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p. m., August 31, 1951, unless otherwise modified, changed, suspended or annulled.

It is further ordered, That this amendment shall become effective at 11:59 p. m., July 31, 1951, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all the railroads subscribing to the car service and per diem agreement under the terms of that agreement, and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., July 27, 1951.

INTERSTATE COMMERCE COMMISSION, HOMER C. KING, *Agent.*

[F. R. Doc. 51-8925; Filed, Aug. 2, 1951; 8:50 a. m.]

[No. 30869]

KANSAS INTRASTATE FREIGHT RATES AND CHARGES

At a session of the Interstate Commerce Commission, Division 1, held at its office in Washington, D. C., on the 26th day of July A. D. 1951.

It appearing, that in a petition filed July 2, 1951, on behalf of The Atchison, Topeka and Santa Fe Railway Company and other common carriers by railroad operating to, from, and between points in the State of Kansas, it is averred that in Ex Parte No. 168, Increased Freight Rates, 1948, 272 I. C. C. 695, and 276 I. C. C. 9, this Commission authorized certain increases in interstate rates and charges throughout the United States, which were established January 11, 1949, and September 1, 1949, respectively, and that the State Corporation Commission of the State of Kansas, by order dated November 23, 1949, in its docket No. 37200-R, has refused to authorize or permit said petitioners to apply to the transportation of brick and articles taking brick rates; cement; chatt, gravel, road aggregates, sand, and stone, crushed; drain tile, clay, and articles grouped therewith; hay; limestone, agricultural; livestock; sewer pipe, clay, and articles grouped therewith; and sugar beets; moving intrastate by railroad in Kansas, increases in freight rates and charges corresponding to those approved for interstate application in the proceedings above cited, or to apply an increased minimum charge per shipment, in less than carloads, or in any quantity, or to apply an increased minimum line-haul rate which includes pickup and delivery services in connection with less-than-carload or any-quantity shipments, moving intrastate by railroad in Kansas, corresponding to those approved for interstate application in said proceedings;

It further appearing, that said petitioners allege that the intrastate rates and charges which they are required to maintain for the transportation of property as aforesaid, moving intrastate by railroad in Kansas as a result of such refusal by the State Corporation Commission of the State of Kansas, cause undue and unreasonable advantage, preference, and prejudice as between persons and localities in intrastate commerce, on the one hand, and interstate commerce, on the other hand, and undue, unreasonable, and unjust discrimination, against interstate and foreign commerce;

It further appearing, that said petitioners state that the commodities and minimum charge and minimum line-haul rate referred to above are the same as those with respect to which the State Corporation Commission of the State of Kansas refused to authorize or permit petitioners to make increases corresponding to those approved for interstate application in Ex Parte No. 162, Increased Railway Rates, Fares, and Charges, 1946, 266 I. C. C. 537, and Ex Parte No. 166, Increased Freight Rates, 1947, 269 I. C. C. 33, 270 I. C. C. 81, and 270 I. C. C. 93, and which were considered by the Commission in Docket No. 30035, Kansas Intrastate Rates, 277 I. C. C. 21, and 280 I. C. C. 609; and that petitioners request that the entire record in said Docket No. 30035, by reference, be made a part of this proceeding;

And it further appearing, that the said petition brings in issue freight rates and charges made or imposed by authority of the State of Kansas:

It is ordered, That in response to the said petition, an investigation be, and it is hereby, instituted, and that a hearing be held therein for the purpose of receiving evidence from the respondents hereinafter designated and any other persons interested, to determine whether the rates and charges of the common carriers by railroad, or any of them, operating in the State of Kansas, for the intrastate transportation of the property referred to in the first paragraph of this order, and the minimum charge per shipment and minimum line-haul rate which includes pickup and delivery services, referred to in said paragraph, made or imposed by authority of the State of Kansas, cause any undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce, on the one hand, and interstate or foreign commerce, on the other hand, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce; and to determine what rates and charges, if any, or what maximum, or minimum, or maximum and minimum rates and charges, shall be prescribed to remove the unlawful advantage, preference, prejudice, or discrimination, if any, that may be found to exist;

It is further ordered, That the request of petitioners that the record in Docket No. 30035, Kansas Intrastate Rates, be made a part of the record in this proceeding, be, and it is hereby, denied without prejudice to its renewal at the hearing before the hearing examiner upon the merits;

It is further ordered, That all common carriers by railroad operating within the State of Kansas subject to the jurisdiction of this Commission be, and they are hereby, made respondents to this proceeding; that a copy of this order be served upon each of the said respondents; and that the State of Kansas be notified of this proceeding by sending copies of this order and of said petition by registered mail to the Governor of the said State and to the State Corporation Commission of the State of Kansas at Topeka, Kans.;

It is further ordered, That notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission, at Washington, D. C., and by filing a copy with the Director, Division of the Federal Register, Washington, D. C.

And it is further ordered, That this proceeding be set for hearing at such times and places as the Commission may hereafter direct.

By the Commission, Division 1.

[SEAL] W. P. BARTEL, *Secretary.*

[F. R. Doc. 51-8923; Filed, Aug. 2, 1951; 8:50 a. m.]